



Kentucky Office of Workers' Claims

**Annual Report
Fiscal Year 2005-2006**

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Commonwealth of Kentucky Office of Workers' Claims

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*Developed by OWC Division of Information and Research
Deborah Wingate, Director
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Kentucky Office of Workers' Claims

Mission Statement:

Resourceful administration of Kentucky's workers' compensation program with equitable and expedient processing of claims

Performance Objectives:

- Assure prompt delivery of statutory benefits, including medical services and indemnity payments
- Provide timely and competent services to stakeholders
- Foster stakeholder knowledge of rights and responsibilities under the Workers' Compensation Act
- Encourage stakeholder involvement in the development of policy and delivery mechanisms
- Provide the public and policy makers with accurate and current indicators of program performance
- Anticipate changes in the program environment and respond appropriately



No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Department of Labor.

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This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provisional services.



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

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OFFICE OF WORKERS' CLAIMS
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October 23, 2006

Honorable Ernie Fletcher
Governor
Capitol Building
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Dear Governor Fletcher:

In accordance with KRS 342.230(2) and KRS 342.435, I have the privilege to submit to you the Annual Report of the Office of Workers' Claims for fiscal year 2005-2006.

Highlighted in this report are initiatives the Office of Workers' Claims has taken during the fiscal year, implementing the administrative and adjudicative provisions of the Workers' Compensation Act (KRS Chapter 342).

Our accomplishments are attributable to the combined efforts of the Office's experienced and talented team, working cooperatively with a far-reaching network of public and private sector entities.

The office continues to work closely with business and labor, the legal arena and the insurance and health care industries on ways in which to enhance the workers' compensation system.

Through its personnel and operating systems, the Office of Workers' Claims stands equipped to continue to refine initiatives introduced in the past while meeting the inevitable challenges of the future. It has been a distinct pleasure to serve; with thanks for your encouragement and support.

Sincerely,

A handwritten signature in dark ink, appearing to read "William P. Emrick".

William P. Emrick
Executive Director
Office of Workers' Claims

Kentucky's Workers' Compensation Program Overview

The Office of Workers' Claims (OWC) has the overall authority and oversight responsibility for operation of Kentucky's Workers' Compensation Program under Chapter 342 of the Kentucky Revised Statutes. The OWC is administratively attached to the Kentucky Department of Labor. The primary purpose of Kentucky's Workers' Compensation Act is to restore an income stream to an injured worker to the extent it has been severed by an industrial injury or occupational disease; to provide timely medical services for the cure or relief of the injury; and to provide rehabilitation and retraining services to injured workers unable to return to their former jobs. The primary goal of the OWC is to assure prompt delivery of statutorily enacted benefits, by providing an expedient processing of injury and occupational disease claims through a non-adversarial process, including mediation and resolution of disputes through prompt adjudication by administrative law judges (ALJs).

The General Assembly enacted sweeping reforms to the program in December of 1996 upon call of a special session by the Governor (House Bill 1). Total cost in premium dollars of the Kentucky systems in 1996 was equivalent to four times the businesses' state corporate income tax liability. The Kentucky coal industry was in crisis. Premiums in the coal industry had risen 89 percent in the preceding two years. The number of workers receiving awards in the previous seven years had more than doubled, despite no evidence of increase in on-the-job injuries.

Legislation in the Workers' Compensation Reform of 1996 was enacted, which focused on critical objectives of fairness to injured workers and affordability for employers who pay for the system. Benefit levels were based on objective impairment ratings under the American Medical Association (AMA) Guides to Functional Impairment; benefit liability was terminated when an injured employee reached 65 years of age; "Injury" was redefined to end subjective decision-making by ALJs. Guaranty Funds were created for all self-insured employers to offset termination of benefits if employers became insolvent or bankrupt.



The General Assembly in 2000 (House Bill 992) increased benefit levels for traumatic injury by taking a worker's age and educational level into account. HB 992 also increased death benefits; enhanced penalties against employers for safety violations which result in work injury; reduced the level of adjudication by eliminating arbitrators; and, reinstated the Workers' Compensation Board for administrative appeal from ALJs before appeal to the appellate courts were authorized. Additional refinement to the law was made during the 2002 General Assembly (House Bill 348) providing that coal miners who leave the coal mining industry and are determined to suffer from the occupational disease of coal worker's pneumoconiosis (black lung) should have opportunity to make transition to other employment by education and retraining programs. Miners who are 57 years of age at the time of their last exposure to coal dust could be entitled to monetary indemnity payments.

The OWC is organized administratively into the Office of the Executive Director, four divisions, the Office of General Counsel and the Office of Administrative Services. The executive director is appointed by the Governor from a list of three candidates nominated by the Workers' Compensation Nominating Commission. The executive director must receive confirmation from the Kentucky State Senate in accordance with procedures established in KRS 342.213, KRS 342.228 and KRS 11.160. There are four major administrative divisions within the OWC under the immediate supervision of the executive director. These include: Division of Claims Processing and Appeals; Division of Security and Compliance; Division of Information and Research; and, Division of Ombudsmen and Workers' Compensation Specialists. Each division is headed by a division director.

The OWC also includes an adjudicative function. Statutory enactment authorizes 19 ALJs. There are currently 16 ALJs employed who make decisions in claims filed before the office. Each ALJ is appointed by the Governor for a term of four years from a list of three names submitted by the Workers' Compensation Nominating Commission. Each ALJ must be confirmed by the Kentucky State Senate; KRS 342.230, KRS 11.160. The Chief Administrative Law Judge is appointed by the executive director (KRS 342.230(8)) to assist the executive director by scheduling hearing dockets; providing supervision of ALJs; handling emergency dockets; and assisting the executive director in providing educational training of ALJs. Claims are heard in 12 hearing sites located geographically throughout the state for convenience of employees and employers.

The WCB consists of three members appointed by the Governor for staggered terms of four years, from a list of three candidates submitted to the Governor by the Kentucky Workers' Compensation Nominating Commission. Confirmation by the Kentucky State Senate is required; KRS 342.215, KRS 11.160. Members of the WCB must possess the same qualifications as judges of the Court of Appeals. One member is appointed by the Governor as Chair of the Board. The WCB renders opinions in appeals taken from decisions by ALJs. Any further appeal is taken by direct appeal to the Kentucky Court of Appeals and thereafter to the Kentucky Supreme Court. Rules adopted by the Supreme Court authorize such appeals from the WCB to the judiciary.

Because of rising costs of health care, the General Assembly requires the executive director to promulgate regulations and implement fee schedules to contain cost of medical services provided to injured workers. The schedule of fees must be fair, current and reasonable. Fees

paid for medical services are regulated by three specific regulations: (1) Workers' Compensation Medical Fee Schedule for Physicians; (2) Workers' Compensation Hospital Fee Schedule; and, (3) Workers' Compensation Pharmacy Fee Schedule. Additionally, the OWC undertakes other cost containment measures by statutory directives: Managed Health Care Programs and Utilization Review Programs that must be certified by the executive director. These are implemented in an effort to contain health care costs while striking the balance required by statute of providing quality medical care to injured workers at a price

that is fair, current and reasonable.

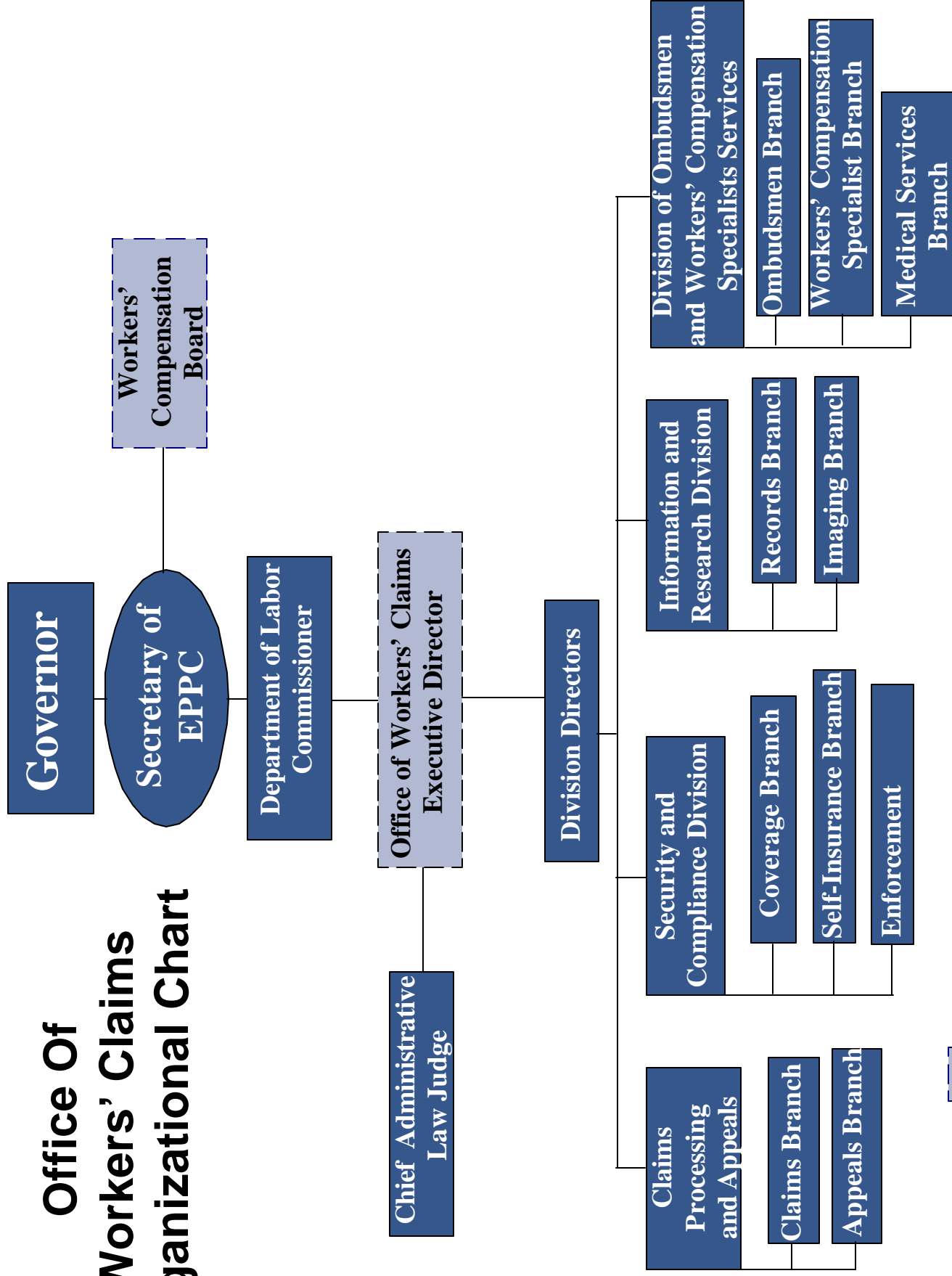


The OWC, moreover, enforces the mandatory workers' compensation coverage statutes with citations and fines against employers who fail or refuse to cover their workers' compensation

liability with insurance; and, assesses fines against insurance carriers who violate the unfair claims settlement practice statutory provisions of the act.

The funding source for 100% of the Workers' Claims' budget is provided by the Workers' Compensation Funding Commission whose purpose is to collect assessments levied upon workers' compensation insurance premiums paid by employers and a simulated premium for self-insured employers. The Funding Commission invests and manages such assessed funds pursuant to KRS 342.122. These assessments are restricted trust and agency funds segregated from other public and state monies.

Office Of Workers' Claims Organizational Chart



Attached for Administrative Purposes only

Program Statistics



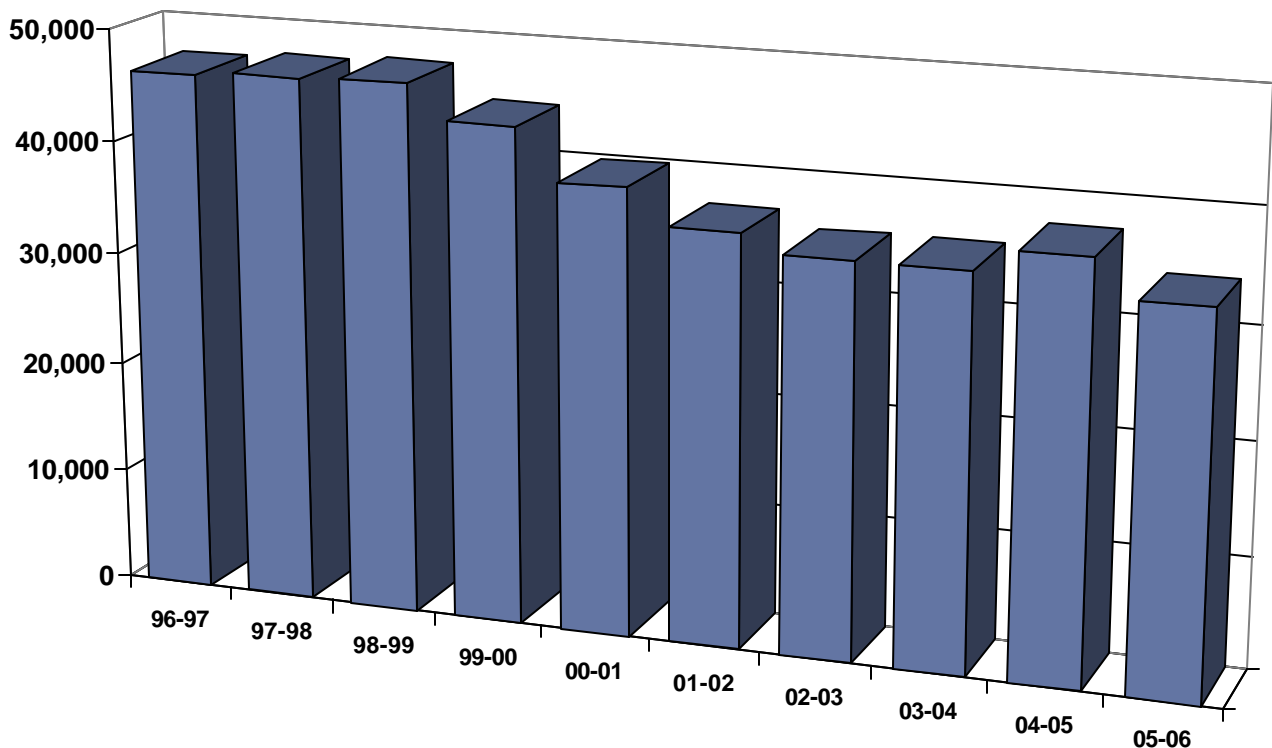
First Reports of Injury

Kentucky Revised Statute 342.038 mandates that employers keep a record of all workplace injuries or fatalities received by employees. Upon employee notification, when more than one day of work is lost, the employer has three days to inform their workers' compensation insurance carrier or third party administrator. The employers' insurance carrier or party responsible for workers' compensation benefits then has one week after notification of the injury or fatality to file a First Report of Injury with the Office of Workers' Claims. Failure to comply with this reporting requirement may result in penalties pursuant to KRS 342.990.

In fiscal year 2005-2006, there were 33,633 lost time First Reports of Injury filed with the Office of Workers' Claims (meaning that these injured workers missed more than one day of work). Of these first reports, 42 percent were filed timely and 32 percent were subject to penalties.

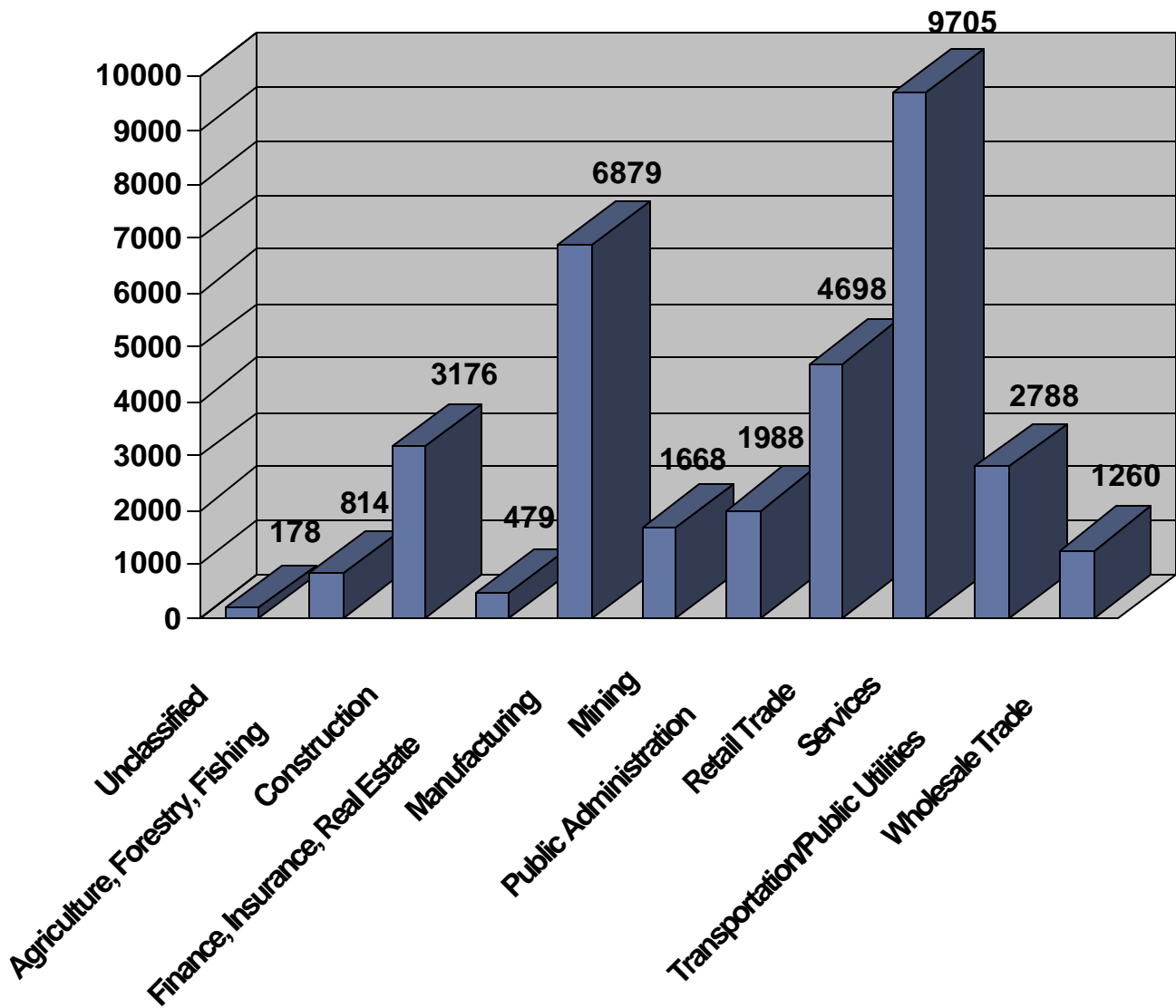
The three most common types of work-related injuries reported in fiscal year 2005-2006 were caused by lifting (6,100), falls (6,034) and strains (2,679).

First Reports of Injury
by Fiscal Year



96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06
46,538	46,866	47,121	44,092	39,589	36,479	35,016	35,015	36,986	33,633

Distribution of Lost Time Injuries by Standard Industrial Classification



Review of the nature of injuries revealed that strains (12,138) and contusions (3,571) accounted for nearly half of all reported injuries. There were 2,495 lacerations and 2,360 fractures reported. Sprains were reported in 2,167 of the injuries received by the Office of Workers' Claims.

Of the information that was reported to the Office of Workers' Claims, the low back area (including lumbar and lumbosacral) had the highest number of injuries (5,594). The second most commonly injured area

was multiple body parts including systems (3,741) and third was injuries to the knee (2,724). This closely mimics the lost time reports of the previous fiscal year.

FYE 06 Lost Time Injuries by Nature

Injury	32,122
Other OD	1,204
Hearing Loss	207
CWP	100

Workers' Compensation Claims

A workers' compensation claim in Kentucky originates when one of two things happens. A settlement document is filed to voluntarily resolve workers' compensation issues between parties; or a claim application is filed because the parties are not in agreement and the matter must be resolved by an Administrative Law Judge.

Workers' compensation claims are typically divided into two types; indemnity and medical-only. Indemnity claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to income payments.

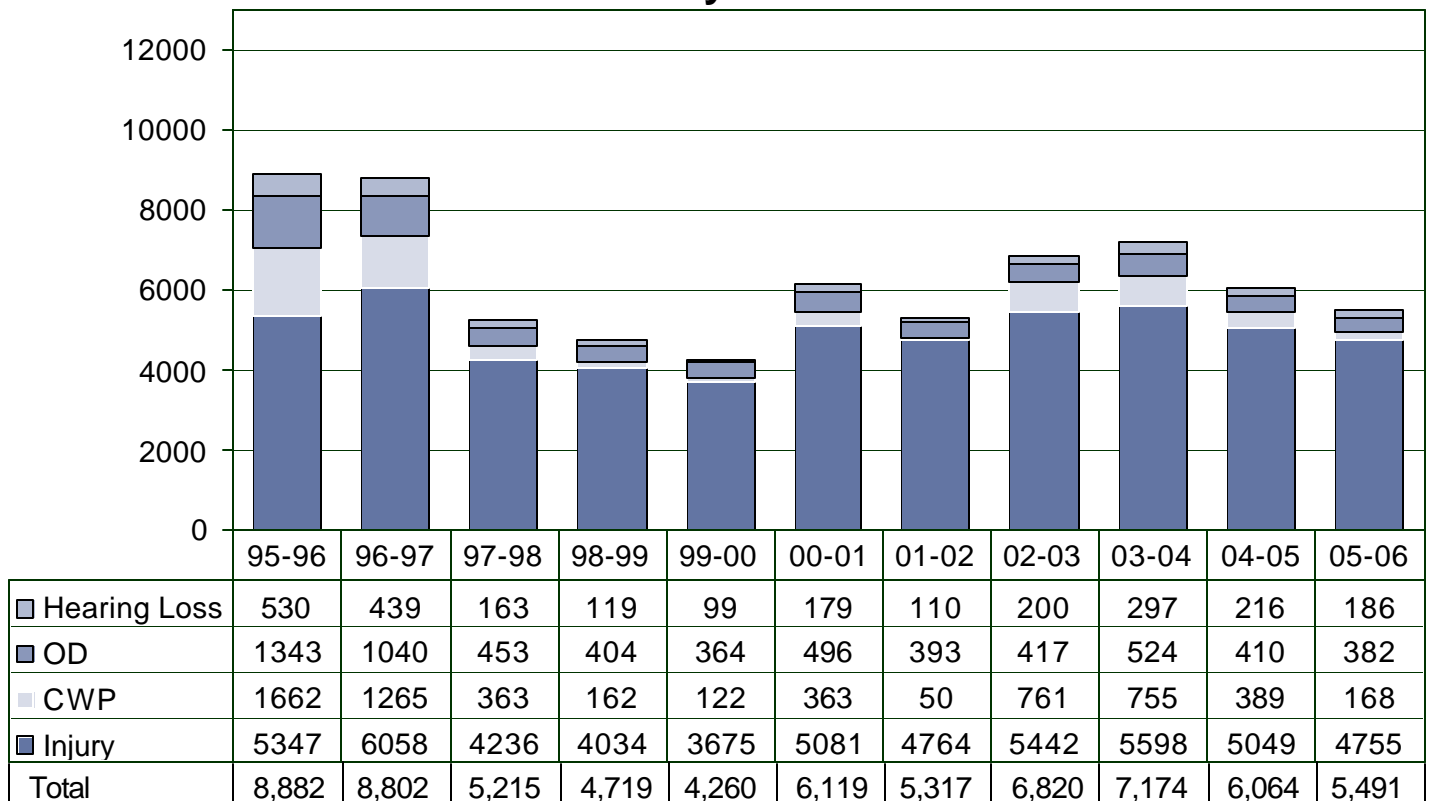
Most of the data in this report pertains to indemnity claims. Presently, there is no

statutory requirement stating that employers or their insurance carriers report medical-only injuries to OWC.

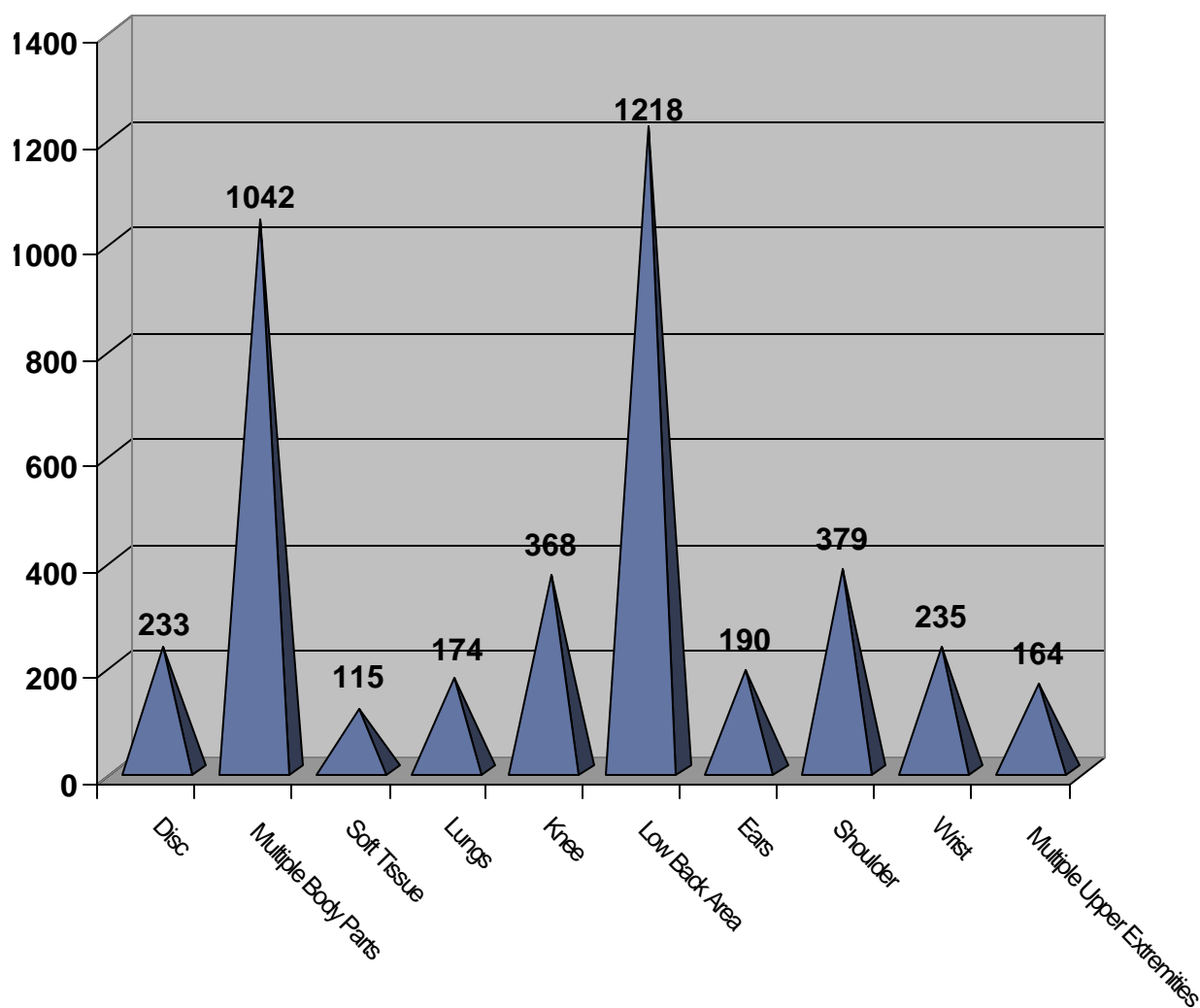
For an injury to be compensable, it must be a direct result of the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those where medical services are delivered but the employee does not qualify for income benefits.

In fiscal year 2005-2006, there were 5,491 requests for resolution of claims filed with the Office of Workers' Claims. This is the lowest number of claims since fiscal year 2001-2002.

Claims Filed by Fiscal Year



Distribution of Claims by Body Part Top Ten



Of the 5,491 claims that were filed this fiscal year, 1,909 claims were filed by females (34%) and 3,556 were filed by males (65%). There were 26 claims with no gender specified (less than 1%). The average age of those who filed claims with the OWC was 42 years.

The Standard Industrial Classification (SIC) category with the greatest number of claims filed was Manufacturing (1,255) followed by Services (1,150). The remaining SIC categories had the following number of claims: Mining (830), Retail Trade (641), Construction (590),

Transportation/Public Utilities (504), Public Administration (176), Wholesale Trade (159), Finance, Insurance, Real Estate (74), Agriculture, Forestry, Fishing (58) and Unclassified (54).

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were falls (1,010), lifting (943) and strains (446).

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims FY 2005-2006

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Adair	8,819	72	0.82%	5	6.94%
Allen	8,610	75	0.87%	9	12.00%
Anderson	10,584	94	0.89%	14	14.89%
Ballard	4,187	33	0.79%	4	12.12%
Barren	19,442	300	1.54%	29	9.67%
Bath	5,056	34	0.67%	11	32.35%
Bell	9,454	226	2.39%	47	20.80%
Boone	58,102	818	1.41%	121	14.79%
Bourbon	9,920	269	2.71%	19	7.06%
Boyd	23,224	536	2.31%	101	18.84%
Boyle	12,817	263	2.05%	30	11.41%
Bracken	4,488	18	0.40%		0.00%
Breathitt	5,552	92	1.66%	27	29.35%
Breckenridge	9,011	64	0.71%	5	7.81%
Bullitt	35,428	274	0.77%	38	13.87%
Butler	5,787	46	0.79%	5	10.87%
Caldwell	6,329	85	1.34%	11	12.94%
Calloway	17,496	262	1.50%	27	10.31%
Campbell	46,832	321	0.69%	38	11.84%
Carlisle	2,312	14	0.61%	1	7.14%
Carroll	5,752	113	1.96%	12	10.62%
Carter	13,605	174	1.28%	20	11.49%
Casey	7,079	49	0.69%	8	16.33%
Christian	27,876	463	1.66%	38	8.21%
Clark	17,220	308	1.79%	48	15.58%
Clay	7,349	82	1.12%	22	26.83%
Clinton	4,553	65	1.43%	14	21.54%
Crittenden	4,069	55	1.35%	5	9.09%
Cumberland	2,970	24	0.81%	4	16.67%
Daviess	46,764	787	1.68%	95	12.07%
Edmonson	5,574	14	0.25%	3	21.43%
Elliott	3,043	17	0.56%	1	5.88%
Estill	6,048	35	0.58%	4	11.43%
Fayette	148,844	2,974	2.00%	354	11.90%
Fleming	6,604	87	1.32%	10	11.49%
Floyd	15,055	351	2.33%	163	46.44%
Franklin	25,364	593	2.34%	72	12.14%
Fulton	2,942	44	1.50%	12	27.27%
Gallatin	4,021	40	0.99%	2	5.00%
Garrard	7,567	42	0.56%	8	19.05%
Grant	12,667	94	0.74%	15	15.96%
Graves	16,017	153	0.96%	23	15.03%
Grayson	11,447	119	1.04%	18	15.13%
Green	5,570	32	0.57%	6	18.75%
Greenup	17,337	118	0.68%	22	18.64%
Hancock	4,144	64	1.54%	11	17.19%
Hardin	46,440	669	1.44%	55	8.22%

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims FY 2005-2006					
County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Harlan	10,091	313	3.10%	110	35.14%
Harrison	8,882	93	1.05%	7	7.53%
Hart	7,958	67	0.84%	7	10.45%
Henderson	23,343	459	1.97%	32	6.97%
Henry	7,948	96	1.21%	14	14.58%
Hickman	2,039	22	1.08%	1	4.55%
Hopkins	22,879	387	1.69%	38	9.82%
Jackson	4,687	44	0.94%	11	25.00%
Jefferson	357,587	6,742	1.89%	962	14.27%
Jessamine	21,785	349	1.60%	45	12.89%
Johnson	9,678	167	1.73%	59	35.33%
Kenton	85,263	1,031	1.21%	90	8.73%
Knott	6,761	145	2.14%	81	55.86%
Knox	12,101	130	1.07%	26	20.00%
Larue	6,840	68	0.99%	6	8.82%
Laurel	26,179	434	1.66%	109	25.12%
Lawrence	5,858	94	1.60%	34	36.17%
Lee	2,691	48	1.78%	10	20.83%
Leslie	3,649	83	2.27%	35	42.17%
Letcher	9,088	211	2.32%	75	35.55%
Lewis	5,601	63	1.12%	7	11.11%
Lincoln	10,655	65	0.61%	10	15.38%
Livingston	4,865	68	1.40%	9	13.24%
Logan	12,281	119	0.97%	15	12.61%
Lyon	3,160	52	1.65%	3	5.77%
Madison	41,418	659	1.59%	88	13.35%
Magoffin	4,476	86	1.92%	19	22.09%
Marion	9,276	214	2.31%	19	8.88%
Marshall	14,427	165	1.14%	24	14.55%
Martin	3,708	175	4.72%	82	46.86%
Mason	8,652	116	1.34%	18	15.52%
McCracken	31,288	378	1.21%	71	18.78%
McCreary	6,104	82	1.34%	12	14.63%
McLean	4,751	32	0.67%	3	9.38%
Meade	12,242	97	0.79%	7	7.22%
Menifee	2,624	20	0.76%	6	30.00%
Mercer	10,554	136	1.29%	25	18.38%
Metcalfe	4,536	29	0.64%	4	13.79%
Monroe	5,091	67	1.32%	13	19.40%
Montgomery	11,470	214	1.87%	36	16.82%
Morgan	5,003	45	0.90%	13	28.89%
Muhlenberg	12,741	188	1.48%	24	12.77%
Nelson	20,534	248	1.21%	54	21.77%
Nicholas	2,963	28	0.94%	1	3.57%
Ohio	11,498	115	1.00%	15	13.04%

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims FY 2005-2006					
County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Oldham	25,846	176	0.68%	28	15.91%
Owen	5,177	55	1.06%	5	9.09%
Owsley	1,540	15	0.97%	6	40.00%
Pendleton	7,619	50	0.66%	6	12.00%
Perry	11,304	381	3.37%	134	35.17%
Pike	24,921	645	2.59%	331	51.32%
Powell	5,533	75	1.36%	17	22.67%
Pulaski	26,930	664	2.47%	78	11.75%
Robertson	1,049	5	0.48%	0	0.00%
Rockcastle	7,617	40	0.53%	9	22.50%
Rowan	12,141	147	1.21%	28	19.05%
Russell	7,893	110	1.39%	12	10.91%
Scott	20,309	777	3.83%	95	12.23%
Shelby	19,857	253	1.27%	57	22.53%
Simpson	8,904	208	2.34%	20	9.62%
Spencer	7,861	32	0.41%	3	9.38%
Taylor	12,457	191	1.53%	17	8.90%
Todd	5,498	23	0.42%	3	13.04%
Trigg	6,643	59	0.89%	9	15.25%
Trimble	4,435	25	0.56%	5	20.00%
Union	7,218	101	1.40%	27	26.73%
Warren	56,256	887	1.58%	115	12.97%
Washington	5,103	85	1.67%	11	12.94%
Wayne	8,771	90	1.03%	13	14.44%
Webster	6,736	118	1.75%	19	16.10%
Whitley	15,542	404	2.60%	58	14.36%
Wolfe	2,320	46	1.98%	7	15.22%
Woodford	13,448	322	2.39%	24	7.45%
Out of State		1,600		420	26.25%
Unknown		143		17	11.89%
Grand Total	2,013,524	33,633	1.67%	5,491	16.33%

Workforce Data provided by the Department of Workforce Investment.
Agriculture is included in the total labor force numbers.
Unknown numbers are due to insufficient reporting information.

Work-Related Fatalities

There were 108 reports of workplace fatalities reported to the Office of Workers' Claims during this fiscal year. However, after investigation, only 29 of the deaths were determined to be work-related (lowest in over 10 years). Those remaining have been ruled not work-related, not a Kentucky claim, death falling outside the reporting period or contain issues which have the case in a pending status.

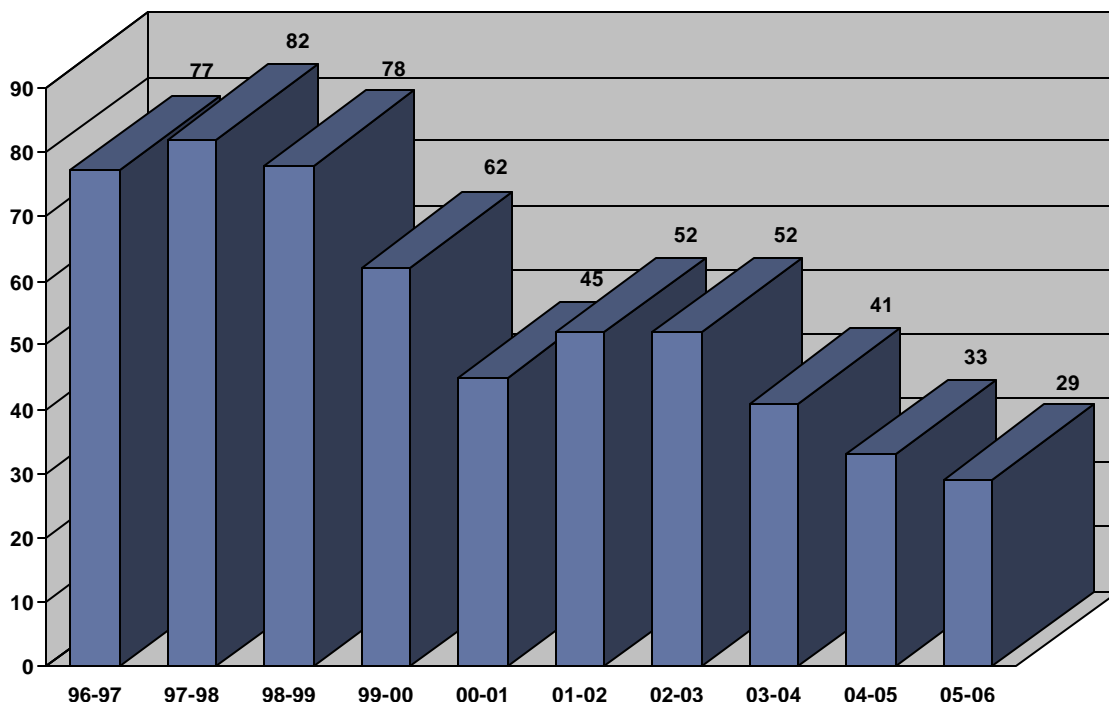
During this time period, the youngest of the casualties was a 21 year old male. He died as a result of a falling object. A 71 year old male was the oldest worker who was fatally injured while handling livestock.

The most common causes of death were motor vehicles accidents (12) and workers killed by falling or flying objects (6). Four workers died from explosions or flare back.

Occupations of these workers ranged from mining machine operators to truck drivers, laborers to mechanics, animal caretakers except farm, timber occupations, industrial truck and tractor operators and electricians.

The mining industry had the most fatalities reporting eight deaths. This was followed by Manufacturing (7), Transportation/Public Utilities (5), Retail Trade (3), Public Administration (2), Wholesale Trade (1), Services (1), Construction (1) and Agriculture, Forestry, Fishing (1). Increased safety education programs as well as collaborative investigative efforts between OSHA and the OWC specialists has contributed to this significant reduction in work-related deaths.

Work-Related Fatalities



Fiscal Performance

The entirety of the funding for the Office of Workers' Claims comes from a special fund assessment imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and against the simulated premium of every employer carrying its own risk. This is collected by the Workers' Compensation Funding Commission (KRS 342.122). These funds are restricted and no general fund dollars are appropriated for OWC operations.



OWC PERSONNEL AD BUDGET HISTORY

FY 1990-91 through FY 2005-06

FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT (\$)	ACTUAL EXPENDITURES (\$)	DIFFERENCE (\$)	PERCENT of BUDGET EXPENDED
2005-2006	173	156	11,093,300	10,634,776	(458,524)	95.9%
2004-2005	173	163	9,498,700	9,182,865	(315,834)	96.7%
2003-2004	195	188	13,649,200	10,735,937	(2,913,263)	78.7%
2002-2003	242	201	16,397,700	13,384,935	(3,012,765)	81.6%
2001-2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%
2000-2001	242	208	14,942,300	12,716,927	(2,258,373)	85.1%
1999-2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%
1998-1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%
1997-1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%
1996-1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%
1995-1996	207	138	9,822,200	9,479,970	(342,230)	96.5%
1994-1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%
1993-1994	167	159	7,860,000	7,337,688	(522,312)	93.4%
1992-1993	167	160	7,505,100	7,004,561	(500,539)	93.0%
1991-1992	153	150	6,901,600	6,497,815	(403,785)	94.0%
1990-1991	155	149	6,737,300	6,487,540	(249,760)	96.0%

This does not include employees with the Workers' Compensation Board, which is attached to the Office of the Secretary; General Counsel, which is attached to the Office of Legal Services; or Technical Support, which is attached to the Department of Labor, Administrative Services.

A woman with blonde hair, wearing a white hard hat and a dark business suit, is shown in profile, looking down at a large set of blueprints she is holding. She is standing on a construction site, with a large metal wheel and structural elements visible in the background. The entire image has a blue color overlay.

Programs and Performance

Office of Administrative Services

The Office of Administrative Services is detached from the Office of Workers' Claims due to the Governor's reorganization. However, their responsibilities include ensuring all financial transactions and personnel actions comply with applicable laws and regulations, are executed in a timely manner, are properly documented and allocated to the appropriate program budget unit. Some of the functions that Administrative Services perform include: managing and executing the annual budget and all contracts and leases; responding to all requests for publications and forms; processing all incoming and outgoing mail; procuring supplies and equipment; maintaining infrastructure for 15 agency locations; coordinating OWC training; and providing daily assistance to all divisions of the Office of Workers' Claims. The following publications are made available by the OWC:

Medical Fee Schedule for Physicians
Executive Director's Report on "B" Readers
Workers' Compensation Posting Notice
Life Expectancy Tables
Rehabilitation Pamphlet
Compliance Inspection Pamphlet
List of "B" Readers for CWP
Acute Low Back Pain Booklet

Workers' Compensation Forms
Hospital Fee Schedule
Annual Report
Benefits Schedule
Quarterly Report
Present Worth Table
Workers' Compensation Guidebook

The following page contains forms that may be requested through Administrative Services or by accessing the Office of Workers' Claims Web site at <http://www.labor.ky.gov/workersclaims>. The only exception to this is the Form 4 which can only be obtained by contacting Administrative Services.



Forms

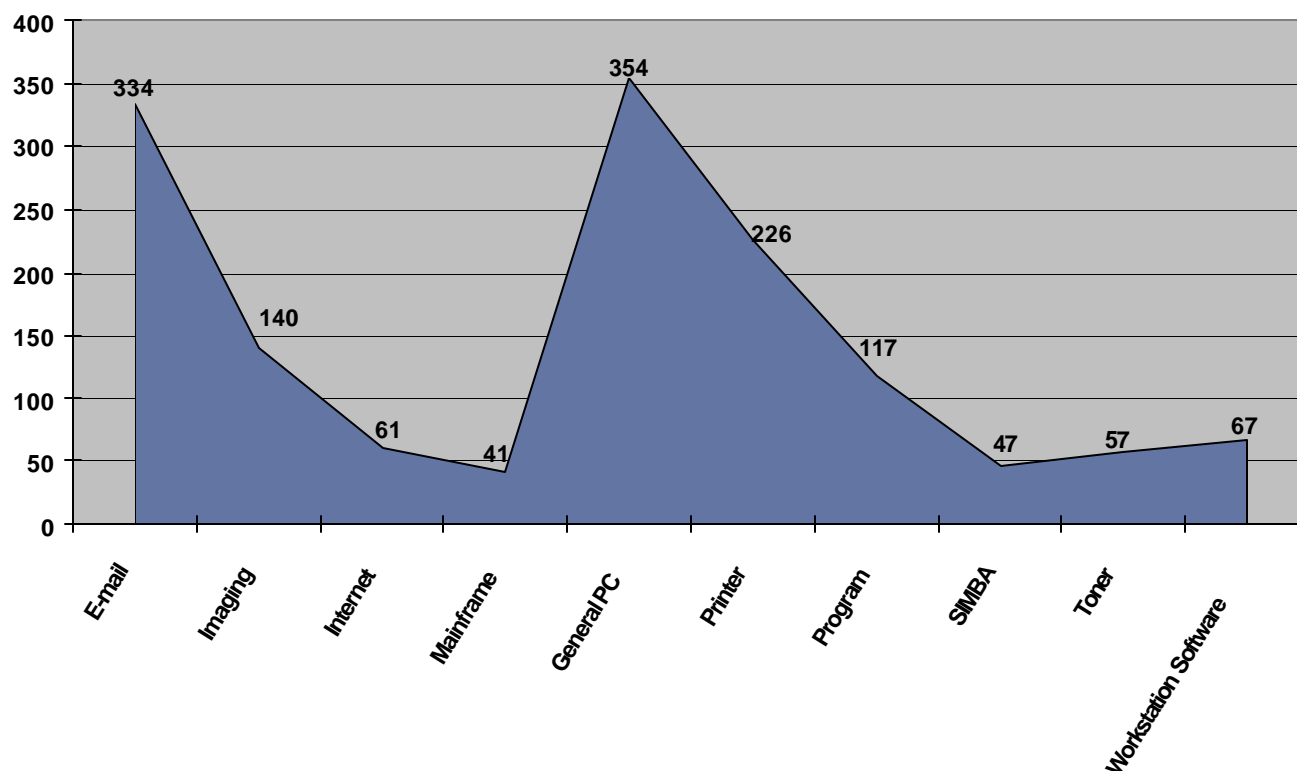
Kentucky Workers' Compensation Act Notarized Affidavit of Exemption by Building Contractor (Corporate or Partnership)	Affidavit of Building Contractor (declaring no employees) which is filed with local building permit
Kentucky Workers' Compensation Act Notarized Affidavit of Exemption by Building Contractor (Individual)	Affidavit of Building Contractor (declaring no employees) which is filed with local building permit office
Form MTR-2	Motion to Reopen KRS 342.732 Benefits
Form 110-CWP	Agreement as to Compensation and Order Approving Settlement for Coal Workers' Pneumoconiosis
Form 102-CWP	Application for Resolution of Coal Workers' Pneumoconiosis Claim
Educational Release Form	Authorization for Release of Educational Information
Form IA-1	Workers' Compensation-First Report of Injury or Illness
Form IA-2	Workers' Compensation-Subsequent Report
Form Hearing Loss Stipulation	Workers' Compensation-Hearing Loss
Form Injury Stipulation	Workers' Compensation-Injury Stipulation
Form Occupational Disease Stipulation	Workers' Compensation-Occupational Disease Stipulation
Form 101	Application for Resolution of Injury Claim
Form 102	Application for Resolution of Occupational Disease Claim
Form 103	Application for Resolution of Hearing Loss Claim
Form 104	Plaintiff's Employment History
Form 105	Plaintiff's Chronological Medical History
Form 106	Medical Waiver and Consent Form
Form 107-I	Physician's Medical Report-Injury
Form 107-P	Physician's Medical Report-Psychological
Form 108-CWP	Physician's Medical Report-Occupational Disease
Form 108-HL	Physician's Medical Report-Hearing Loss
Form 108-OD	Physician's Medical Report-Occupational Disease
Form 109	Attorney Fee Election
Form 110-I	Agreement as to Compensation and Order Approving Settlement-Injury
Form 110-O	Agreement as to Compensation and Order Approving Settlement-Occupational Disease
Form III-I-HA	Notice of Claim Denial or Acceptance-Injury and Hearing Loss
Form 111-OD	Notice of Claim Denial or Acceptance-Occupational Disease
Form 112	Medical Dispute
Form 113	Notice of Designated Physician
Form 114	Request for Payment for Services or Reimbursement for Compensable Expenses
Form 115	Social Security Release Form
Form AWW-1	Average Weekly Wage Certification
Form 150	Workers' Compensation Statistical Report
Form 375	Application for Split Coverage
Form EL1 and EL2	Employee Leasing Company Registration Form
Form 375 Wrap-up	Application for Split Coverage (Wrap-up)
Form 11	Motion to Substitute Party and Continue Benefits
Form MAO	Medical Fee Dispute and Mediation
Manual Change Form	Request for Manual Changes
Form 110-F	Agreement as to Compensation and Order Approving Settlement-Fatality
Form SI-01	Self-Insurers' Guarantee Agreement
Form SI-02	Self-Insurance Application
Form SI-02 Attachment	Self-Insurance Application Attachment
Form SI-03	Continuous Bond
Form SI-03 Attachment	Surety Rider
Form SI-04	Letter of Credit
Form SI-08	Loss Report
Managed Care - UR Form	Managed Care - UR Form
Service Contract Agreement	Service Contract Agreement
Form MTR-1	Motion to Reopen by Employee
Form MTR-3	Motion to Reopen by Defendant

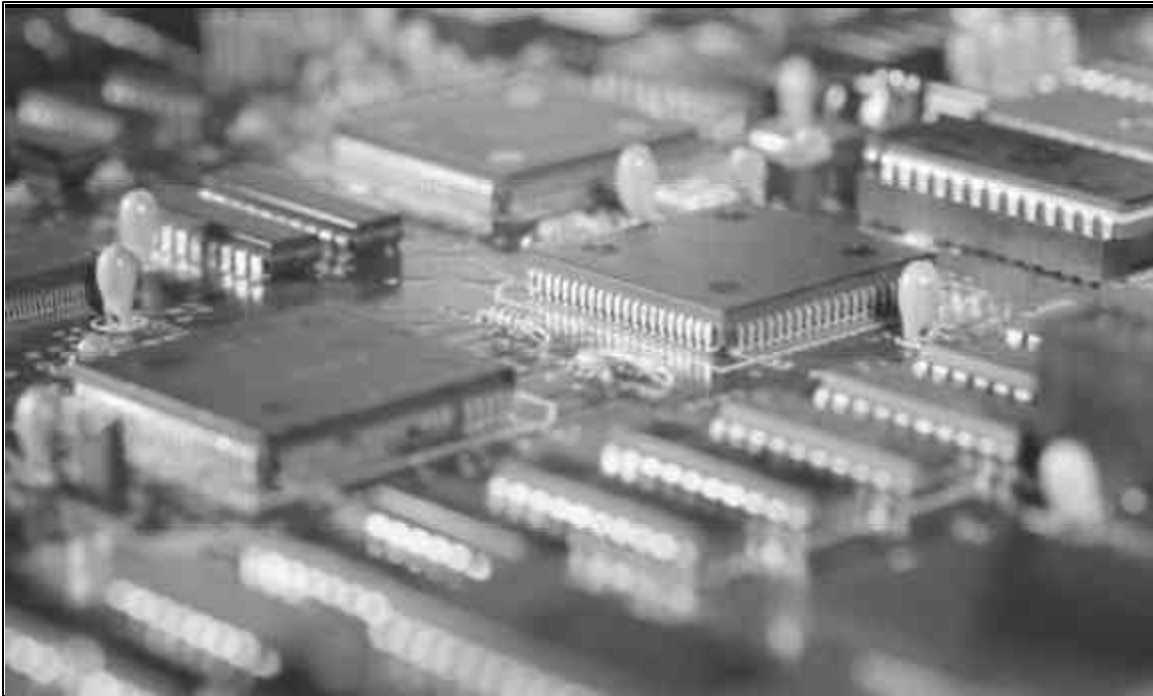
Technical Support & Design and Development

The Technical Support & Design and Development Section responds to all technical, networking and programming needs for the Office of Workers' Claims. Technical Support staff performed many routine tasks ranging from loading software applications and security patches, setting up audio visual equipment, assisting with presentations, loading critical updates, and a wide range of other technical issues during this time period. Staff coordinated equipment moves for various sections including fax machines, printers, field offices networks, workstations, scanners, microfilm equipment and telephone extensions.

In addition to duties often associated with technical support, researching a variety of new equipment and products was necessary to ensure to OWC's technical needs are addressed. The following are examples of research topics reviewed during FY 2005-2006: scanners, tablet PC, new bar code system, KIH2, book key to table PCs, print server, web server, microfilm equipment, microfilm conversion issues, VOIP, Nortel equipment, laptop, virtual server, SAN/SUS server, equipment replacement, importing tiff images from Scanner and FileNet upgrades.

Top Ten Helpdesk Requests FY 05-06





Design and Development staff worked to enhance the agency's Server-based System for Information Management and Business Applications (SIMBA) system, Electronic Data Interchange (EDI) and Proof of Coverage (POC) programs to meet the evolving needs of the agency. Staff was able to apply new features to SIMBA, EDI, Reports and Rehab that would assist user's day to day functions. Several builds were incorporated during this time frame, as well as the completion of 178 test track issues and 250 new test track issues. Design and Development staff continue to test new screens and the design layout of the policy driven project, which was initiated last fiscal year. Several sections within the OWC have provided invaluable input which has been incorporated into the new Proof of Coverage system. In addition to the policy driven system, Design and Development staff continued to work on enhancements to the Electronic Data Interchange (EDI) applications, which is the primary way data is introduced into SIMBA from outside entities.

Office of General Counsel

The Legal Services Division is a division of the Environmental and Public Protection Cabinet, Office of Legal Services. However, the responsibilities of the legal services division during this reporting period was to provide legal support services to the Office of Workers' Claims in numerous legal capacities. The office advises the executive director's office as to responsibilities with regard to personnel actions under KRS Chapter 18A, and defends the agency against any actions, personnel or otherwise, that are filed against the office. Additionally, the legal services division has responsibility for promulgating regulations required of the office and drafting and reviewing legislation. The office provides assistance to the Enforcement Branch in ensuring compliance with workers' compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide workers' compensation coverage for their employees. In circumstances where an employee is injured and their employer has failed to provide insurance coverage, liens are filed against assets of uninsured employers pursuant to KRS 342.770.

The office is responsible for reviewing open records requests in compliance with the state's open records law. The office works closely with the Division of Workers' Compensation Specialists and Ombudsman in investigating unfair claims practices, and is responsible for issuing citations and representing the office at hearings when it has been determined that an unfair claims practice has occurred.



During this past fiscal year, the Legal Services Division collected approximately \$937,000.00 in fines and penalties. The office received 881 citation cases, 46 unfair claims settlement practice cases and 21 new fraud cases. This office has filed restraining orders and collection actions in circuit court, held formal hearings and show cause hearings before administrative law judges and drafted agreed orders for settlements with regard to the above cases. The Legal Services Division has also represented the agency, more specifically the coverage and compliance division, with regard to self-insurance audits and legal issues and/or bankruptcy proceedings. The current economy has forced more companies into bankruptcy and/or reorganization.

Administrative Law Judges

The Office of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated, 16 of which are currently filled. Each ALJ is appointed by the Governor for a four year term from a list of three names submitted by the Workers' Compensation Nominating Commission. Each ALJ is subject to confirmation by the Kentucky State Senate. One of the ALJs is designated Chief Administrative Law Judge pursuant to KRS 342.230(8).

Honorable Sheila C. Lowther, chief administrative law judge, is assigned to the Frankfort, Kentucky office. Judge Lowther was reappointed as of 1/1/04. The Chief Administrative Law Judge (CALJ) presides over a motion docket on Tuesday and Thursday, a settlement docket twice each week and a CWP docket one day each week. The CALJ prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, conducts enforcement hearings, takes initial assignment of all CWP claims, covers dockets for other ALJs on an emergency basis and coordinates all ALJ activity.

The other 15 ALJs oversaw the adjudication of claims filed with the Office of Workers' Claims. The ALJs are required to conduct benefit review conferences and formal hearings in these claims. Thereafter, they are required to issue decisions in the claims within 60 days after the date of the hearing. These decisions must contain findings of fact and rulings of law and are subject to appeal to the Workers' Compensation Board, Court of Appeals and the Supreme Court.

Benefit review conferences and hearings are held at the 12 hearing sites in Kentucky maintained by the Office of Workers' Claims. These hearing sites are located in Ashland, Bowling Green, Florence, Hazard, Lexington, London, Louisville, Madisonville, Owensboro, Paducah, Pikeville and Pineville.

During the past fiscal year, the ALJs presided at 5,633 benefit review conferences. A substantial number of those cases were settled. Formal hearings were held in the remainder. The ALJs presided at 2,362 formal hearings. They issued 2,060 opinions and issued an additional 84 opinions in cases which were remanded on appeal. The ALJs also participated in two training sessions and attended and/or spoke at numerous seminars about the Kentucky Workers' Compensation Program.

Attorney Fees Awarded During FY 2005-06

	Number of Fees Approved	Total Fees Awarded	Average Fee
Plaintiff	4,824	\$31,842,473.68	\$6,600.84
Defense	3,921	\$20,673,317.90	\$5,272.46

Summary of FY 05-06 Workers' Compensation Cases

Lanter v. Kentucky State Police, 171 S.W.3d 45 (Ky. 2005)

Subject: AMA Guides

When the medical evidence was conflicting, the ALJ properly consulted the AMA Guides to determine whether impairment from emotional and behavioral problems resulting from an injury to the central nervous system should be assessed under Chapter 13 or Chapter 14 of those Guides.

Jones v. Brasch-Barry Gen. Contractors, 189 S.W.3d 149 (Ky. App. 2006)

Subject: AMA Guides

A medical assessment that disregards the express terms of the AMA Guides cannot constitute substantial evidence to support an award of workers' compensation benefits.

Spears v. Carhartt, Inc., 2005-SC-0694-WC (NOT FINAL-Petition for Rehearing Pending)

Subject: Alternative Dispute Resolution (ADR)

The Alternative Dispute Resolution authorized by KRS 342.277 is not invalid and the claimant was not denied due process.

Keith v. Hopple Plastics, 178 S.W.3d 463 (Ky. 2005)

Subject: Calculation of Benefits and Constitutional Law

The Supreme Court held that KRS 342.730(4) requiring termination of benefits when claimant qualified for social security retirement benefits did not violate equal protection.

Lowe's #0507 v. Greathouse, 182 S.W.3d 524 (Ky. 2006)

Subject: Calculation of Benefits and Concurrent Employment

KRS 342.730(1)(c)1 refers to work performed in the employment in which the injury occurred. A worker who remains physically capable of performing his job for the defendant employer is not entitled to an enhanced income benefit simply because the injury deprives him of the physical capacity to return to a concurrent job for another employer.

Howard v. Peabody Coal Co., 185 S.W.3d 165 (Ky. 2006)

Subject: RIB Award and Attorney Fees

The attorney of a claimant who is less than 57 years old is not entitled to a fee for a RIB award until the claimant enrolls and actively participates as a student.

Brasch-Barry General Contractors v. Jones, 175 S.W.3d 81 (Ky. 2005)

Subject: Procedure — Petition for Reconsideration

Where the board's decision construed the intent of KRS 342.730 and was not based on any factual findings made by the ALJ, the issue was one of law and did not require a petition for reconsideration to preserve it.

Hutchins v. General Electric Co., 190 S.W.3d 333 (Ky. 2006)

Subject: Procedure — Appeal

The board is not an indispensable party on appeal to the Court of Appeals.

Butler's Fleet Service v. Martin, 173 S.W.3d 628 (Ky. App. 2005)

Subject: Procedure — Joinder

The claimant was not allowed to amend his claim to include a psychological overlay, where the motion to amend was not filed within five days following expiration of proof time and claimant knew or should have known about the psychological claim at the time of the original filing.

Gray v. Trimmer, 173 S.W.3d 236 (Ky. 2005)

Subject: Procedure-Notice of Denial

The Supreme Court held under the facts of the case that the employer's failure to file a timely form 111 notice of denial or acceptance of an application for workers' compensation benefits results in an admission of all allegations of the application.

Akers v. Pike County Board of Education, 171 S.W.3d 740 (Ky. 2005)

Subject: Statute of Limitations

The OWC is not required to send the letter notifying the employee of his right to file a claim and the statute of limitations (required by KRS 342.040) by registered mail. Employee's statement that he did not receive a "statute letter" advising him of his right to prosecute workers' compensation claim after employer terminated voluntary temporary total disability (TTD) benefits was insufficient to estop employer from raising limitations defense.

Billy Barker Painting v. Barry, 179 S.W.3d 860 (Ky. 2005)

Subject: Statute of Limitations

The employer's form IA-1 indicated that the worker returned to work on November 16, 1997, and indicated that it terminated TTD benefits but did not include the date that benefits were terminated. The OWC therefore did not notify the worker of the right to file a claim and of the statute of limitations. The employer was barred from relying on the statute of limitations.

Hodges v. Sager Corporation, 182 S.W.3d 497 (Ky. 2006)

Subject: Statute of Limitations — Reopening

The claimant filed a motion to reopen on 12/12/00 (the date the statute of limitations expired), but ~~the~~ prima facie showing of a post-award change of disability was not made until thereafter. The reopening was barred by the statute of limitations. A workers' compensation claimant's right to increased benefits at reopening vests on the date that a motion to reopen is filed, and therefore, when the premise for a motion to reopen is a post-award change of disability, the change must exist when the motion is filed and the motion must be supported by the prima facie showing that workers' compensation law specifies.

Carnes v. Parton Bros. Contracting, 171 S.W.3d 60 (Ky. App. 2005)

Subject: Rehabilitation

If neither party has requested a rehabilitation evaluation, it is within the discretion of the ALJ, and not an appellate body, to order such an evaluation.

Neighbors v. River City Interiors, 187 S.W.3d 319 (Ky. 2006)

Subject: Rehabilitation

An ALJ has jurisdiction over post-award rehabilitation disputes. The ALJ can order rehabilitation on his own motion.

Smart v. Georgetown Community Hosp., 170 S.W.3d 370 (Ky. 2005)

Subject: Work Relatedness

An injury at the employer's company picnic is not compensable. Injury that the workers' compensation claimant sustained while playing volleyball at employer-sponsored picnic was not work-related, and thus the claimant was not entitled to recover workers' compensation benefits, although the employer strongly encouraged employees to attend picnic; the claimant did not feel that she was required to attend, pick-up volleyball game was neither organized nor controlled by the employer and the claimant's participation was purely voluntary.

Williams v. Whitecastle Systems, Inc., 173 S.W.3d 231 (Ky. 2005)

Subject: Work Relatedness — Death

Death from a combination of illegal drugs the claimant took in conjunction with medication prescribed for his injury is not compensable.

Lane v. S & S Tire, Inc., 182 S.W.3d 501 (Ky. 2006)

Subject: Work Relatedness — Education Factor — Voluntary Benefits

The evidence did not compel a finding that the work related injury was the proximate cause (i.e., the direct cause rather than merely a contributing cause) producing the claimant's suicide. When a claimant has a GED, he is not entitled to the enhancement of benefits based on education. KRS 342.267 does not provide a civil remedy for a bad faith refusal to settle a claim or to pay voluntary benefits, but KRS 342.040 and KRS 342.310 provide remedies within the workers' compensation system.

Realty Improvement Co. Inc. v. Raley, 2005-SC-0499-WC; 2006 WL 1650566

(FINALITY – 07/06/06)

Subject: Safety Violation — Procedure — Due Process

The enhancement of benefits provided by KRS 342.165 applies to the lump sum death benefit provided by KRS 342.750(6). Although the employer did not receive actual notice of the claim until after the claim was submitted for decision, there was no due process violation because the attorney hired by the carrier to represent the employer timely entered an appearance.

Morrison v. The Home Depot, 2005-SC-0719-WC

(NOT FINAL-Petition for Rehearing Pending)

Subject: University Evaluation

KRS 342.315 does not authorize universities to subcontract with private doctors to perform independent medical examinations.

Krahwinkel v. Commonwealth Aluminum, 183 S.W.3d 154 (Ky. 2006)

Subject: Civil Action — Double Recovery

Civil liability of property owner was not limited to payment of worker's compensation benefits if worker's injuries were caused by property owner's negligence. KRS 342.700(1) precludes a civil plaintiff from recovering from a tortfeasor the same elements of damages for which he had already been compensated by way of workers' compensation benefits. A tortfeasor is entitled to an offset or credit against the judgment for the damages awarded by the jury that duplicate workers' compensation benefits. Double recovery is precluded regardless of whether the employer pursues its subrogation rights.

Cincinnati Insurance Co. v. Samples, 192 S.W.3d 311 (Ky. 2006)

Subject: Civil Action — Double Recovery

The Supreme Court applied the principles of Krahwinkel v. Commonwealth Aluminum Corp., 183 S.W.3d 154 (Ky. 2005), to preclude a civil plaintiff from seeking to recover damages, duplicative of worker's compensation benefits, against a UIM or UM carrier who is sued for damages otherwise payable by the underinsured or uninsured tortfeasor.

AIK Selective Self-Insurance Fund v. Minton, 192 S.W.3d 415 (Ky. 2006)

Subject: Civil Action — Double Recovery

The workers' compensation insurer's subrogation claim was eliminated because the amount of the subrogation claim was less than the amount of the attorney fees and costs incurred by the employee in the civil action.

Reece v. Dixie Warehouse, 188 S.W.3d 440 (Ky. App. 2006)

Subject: Civil Action — Double Recovery

Warehouse was entitled to a credit for workers' compensation benefits paid to a contractor's employee against only the award of lost wages in a negligence action brought against the warehouse by the contractor's employee.

Brown v. Indiana Insurance Company, 184 S.W.3d 528 (Ky. 2006)

Subject: Civil Action — Automobile Insurance

The employer's commercial automobile liability insurance policy did not afford coverage for civil damages sought by employees' estates.

Combs v. Kentucky River Dist. Health Dept., 2005-CA-001135-WC;

2006 WL 306921 (FINALITY – 06/22/06)

Subject: Medical Benefits

A workers' compensation claimant was entitled to an award of future medical benefits after reaching maximum medical improvement in the absence of a finding of permanent disability and a resulting impairment. The administrative law judge's award of future medical benefits was supported by substantial evidence; while the ALJ determined, based on medical opinions of doctors, that claimant had 0% cervical impairment and 0% lumbar impairment, he also declared that he was not making a finding of a temporary injury, and ALJ remained convinced the physical effects of claimant's work-related condition, though not measurable by way of impairment rating under AMA Guides, were permanent and would require medical treatment in the future beyond point of maximum medical improvement.

Scott v. AEP Kentucky Coals, LLC, 2005-CA-002486 (NOT FINAL)

Subject: Reopening

Reopening of coal workers' pneumoconiosis claim under current statutes requires two additional years of exposure; statutes are not unconstitutional as denying due process and equal protection.

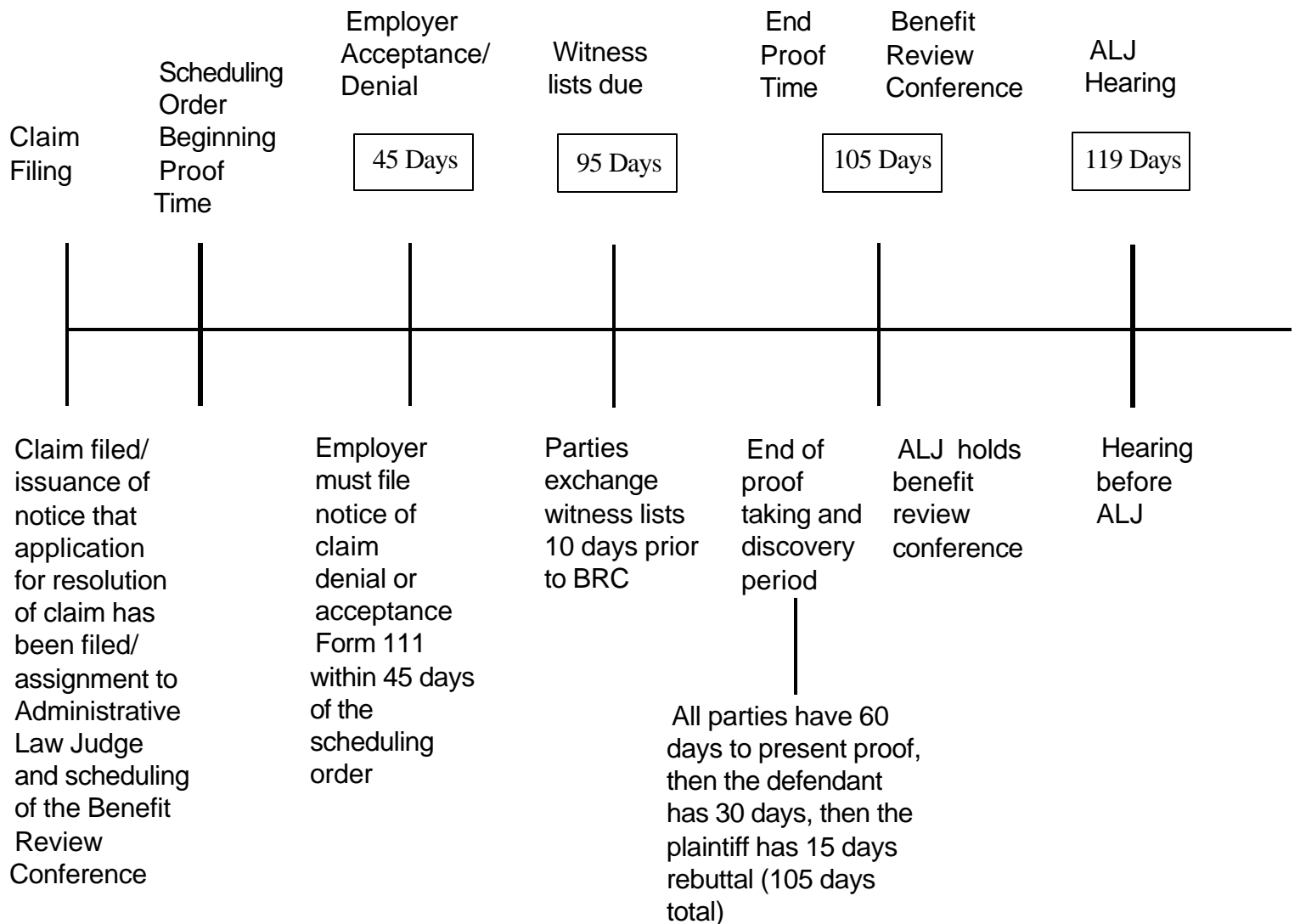
Jefferson County Public Schools/ Jefferson Co. Board of Education v. Stephens, 2005-CA-001677-WC (NOT FINAL-Appealed to Supreme Court)

Subject: Work-Relatedness

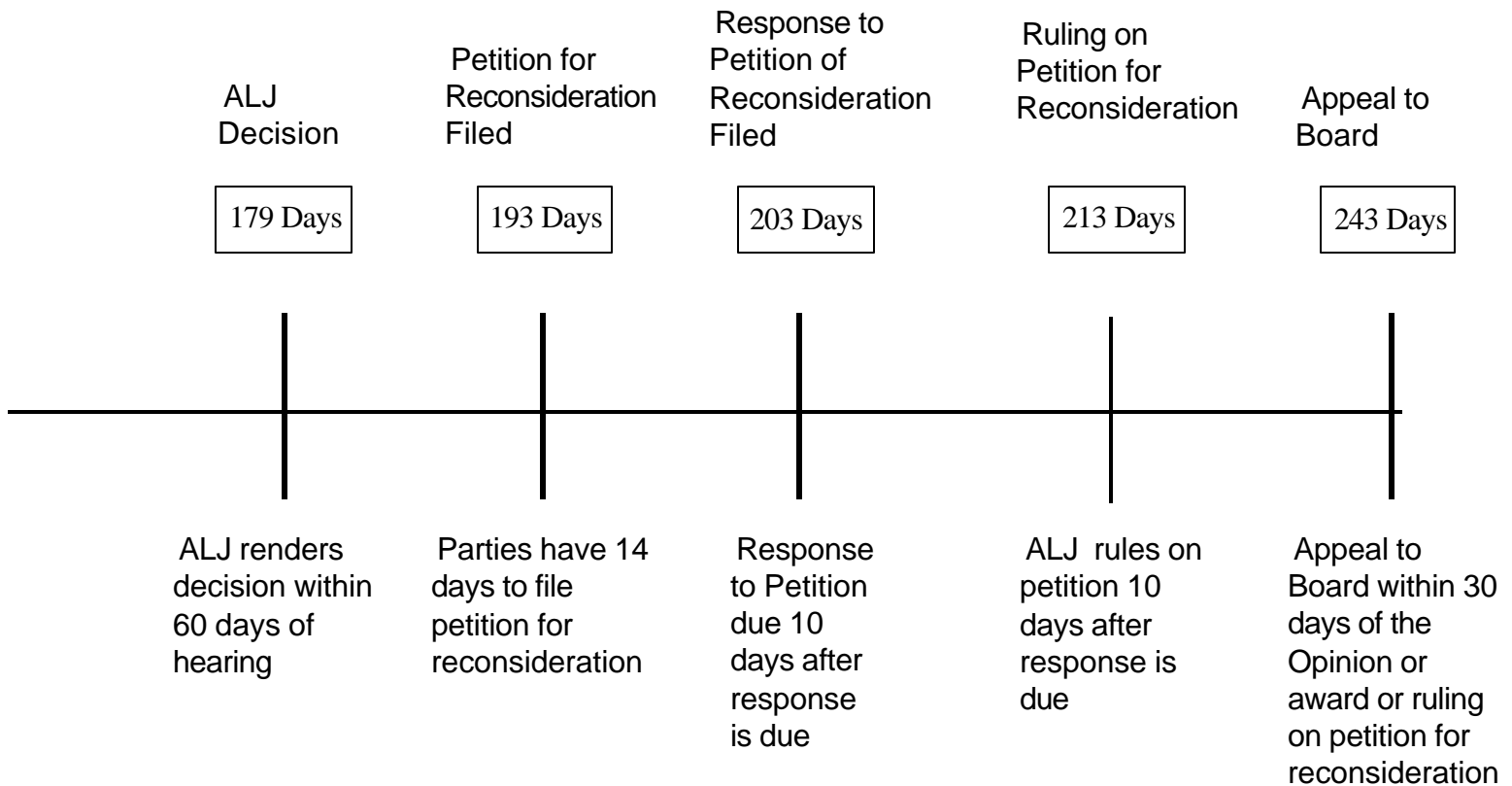
In absence of definitive evidence that a fall was idiopathic, a claimant is entitled to a presumption of work-relatedness.

Please note as follows: According to CR 76.28(4) and the Kentucky Court of Justice Web site , opinions shall not be cited as authority if the case is labeled "Not to be Published" or until all steps in the appellate process have been exhausted and the case has become final and is designated "To Be Published".

Kentucky Workers' Adjudication



Compensation Timeline



Claims Processing & Appeals



The Division of Claims Processing and Appeals is comprised of two branches bearing those same names. The Claims Processing Branch is charged with the timely processing and assignment of applications for resolution. Whether it is from an injury, an occupational disease including pneumoconiosis, a hearing loss, a medical fee dispute, an order for an attorney fee or an official agreement of any type, all pass through this branch. Furthermore, the scheduling for the benefit review conferences with each of the Administrative Law Judges; the scheduling of the court reporters; the maintenance of the Frankfort motion docket for the Chief Administrative Law Judge; and the auditing of the resolved files are all completed here as well.

Claims Processing & Appeals

The Claims Processing Branch consists of the Agreement Section, the Case Files Section, the Claims Assignment Section and the Docket Section.

The Agreement Section receives and processes settlement agreements, attorney fees and motions to substitute party for widows' benefits. In addition, motions and agreements are prepared for submission to the Frankfort Agreement Docket for ruling by the Chief Administrative Law Judge. Agreement staff processed 4,780 agreements representing settlements related to first reports; 811 agreements from reopenings (medicals and lump sums); 1,260 motions for attorney fees; and 151 motions to substitute party/widow's benefits.

The Case Files Section receives and processes unassigned motions to reopen, motions for attorney fees and miscellaneous motions, preparing these pleadings for assignment to the docket section. This section houses and maintains the file tracking system, serves as the custodian for all exhibits and x-rays filed during the litigation of the claim and also audits/purges the files after a final decision has been rendered. Section staff received 1,946 new motions, checked in and audited 5,662 files and purged 5,872 files.

The Claims Assignment Section receives and processes all applications for resolution of injury, occupational disease, coal workers' pneumoconiosis and hearing loss claims. In addition, they assign these claims to the Administrative Law Judges, schedule the benefit review conferences and prepare the calendar for the court reporter assignments. The claims assignment staff processed 4,219 new claims, of which 85 were coal workers' pneumoconiosis (CWP) claims. Section staff assigned 4,113 files plus 1,005 cases from the motion docket (reopenings) to the Administrative Law Judges for the benefit review conferences.

The Docket Section prepares motions in cases which have not been assigned to a law judge and places them on the Frankfort Motion Docket for ruling by the Chief Administrative Law Judge. The staff attended each of the 51 dockets that were held during this fiscal year to provide assistance and to record the 3,344 motions that were ruled upon by the Chief ALJ.



The Appeals Branch, an integral part of the Claims Processing and Appeals Division, readies the appeals from the Administrative Law Judge decision to the Workers' Compensation Board (WCB), the Court of Appeals and the Supreme Court. Statutes and regulations require the timely filing of motions, briefs and petitions with regard to appeals as well as the aforementioned claims. The personnel in this branch monitor and track all filings with their own database and hard copy files. They compile, index and transfer workers' claims files to the WCB and the Court of Appeals, concluding with the filing and entering of all subsequent orders and opinions rendered by the board and appellate courts.

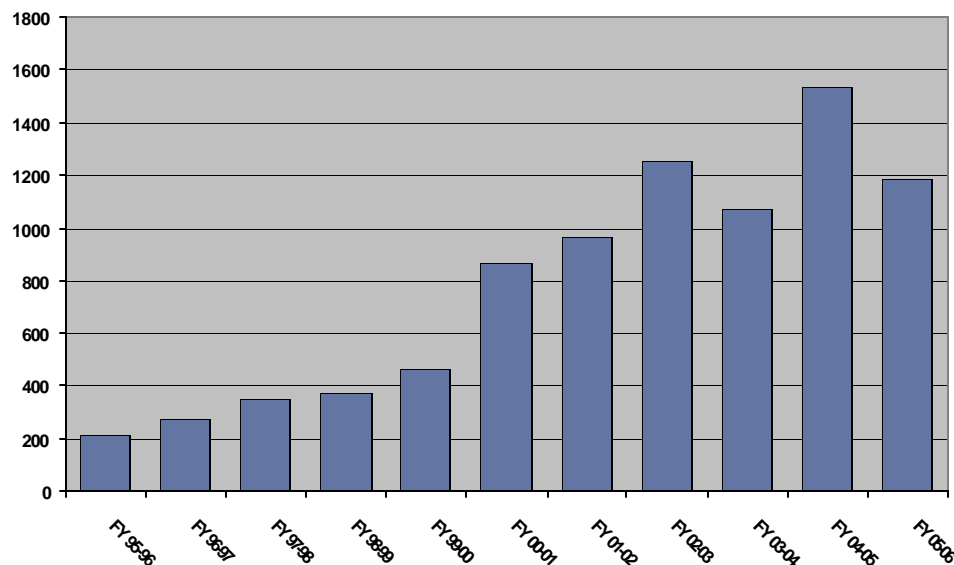
Branch personnel processed 554 appeals to the Workers' Compensation Board during fiscal year 2005-2006. The board ordered final disposition on 216 claims. A total of 382 board opinions were rendered with the Honorable Jonathan Stanley rendering 127 opinions; the Honorable John A. Gardner, 125 opinions; and the Honorable Kent T. Young, 130 opinions. No full board opinions were rendered. Including the 216 final disposition orders, a total of 598 cases were processed by the Workers' Compensation Board.



During this fiscal year, 120 petitions for review were filed with the Court of Appeals; 120 records were prepared, indexed and transferred to the Court of Appeals by the staff, with the court rendering 124 opinions. Final orders came down on 12 claims. Additionally, there were 74 claims appealed to the Supreme Court with the court rendering 52 opinions and 17 final orders.

Mediation Pilot Program

Medical Fee Disputes Filed by Fiscal Year



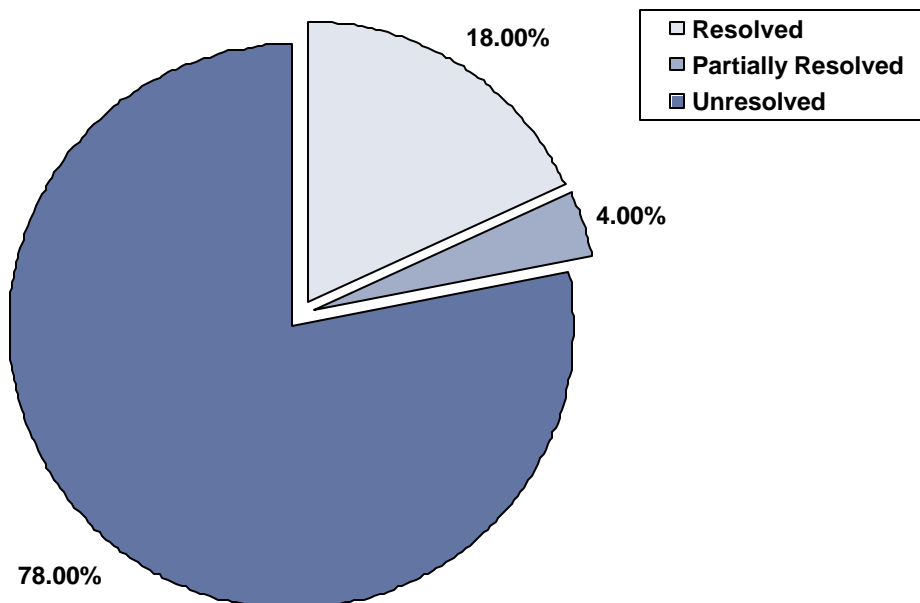
During this fiscal year, the Office of Workers' Claims promulgated emergency mediation regulations (803 KAR 25:250E) in an attempt to curb the rising number of medical fee disputes filed each year. Initially, this new mandatory mediation program was applied to all post settlement or post award claims to help expedite medical disputes.

The mediation process was intended to assist parties in resolving workers' compensation medical fee disputes quickly and simply. However, after holding several mediation dockets, review of agency data indicated that only 18 percent of the medical fee disputes were resolved through mediation. In an attempt to increase the success rate, the agency adjusted the mediation criteria and

elected not to require any dispute arising from a black lung claim to be mediated.

Again, while some improvement was seen, the success rate was not sufficient to justify the added administrative costs or expenses incurred by the parties. As a result, after a six month trial period, the executive director repealed the mandatory mediation regulation and referred this topic for review by one of the seven sub-committees organized in the 2006 Medical Review Study (See 2006 Medical Issues Study on page 50).

Medical Fee Dispute Mediations



The background image shows a woman in the upper left and a man in the lower right, both looking at a computer monitor. The man is wearing glasses. The entire image is covered with a semi-transparent blue overlay. The title 'Information and Research' is centered at the top in a large, bold, dark blue font.

Information and Research

The duties of the Division of Information and Research include collection, storage and retrieval of data and the dissemination of information. The Division of Information and Research is organized into two branches, the Records Branch and the Imaging Branch. The Records Branch is primarily responsible for data entry, Electronic Data Interchange (EDI), coding, responding to requests for claim and first report information, publications, specific data extrapolation associated with open records requests and ensuring the validity and integrity of the OWC's databases. The duties of the Imaging Branch consist of imaging and verifying all hard copy documents as well as indexing them into the OWC's integrated information and optical image system.

Records Branch

The Records Branch is a fundamental part of the Office of Workers' Claims (OWC) and is divided into four sections: Data Entry, Electronic Data Interchange (EDI), Open Records and the Research Section. These sections combine to ensure reliability, accuracy and integrity within the data that is submitted to the OWC.

The Data Entry Section receives and processes incoming mail, sorting and counting by document type. This section receives 90 percent of the documents filed with the OWC. This includes interpretation of orders prepared by the Administrative Law Judges (ALJs) and pleadings filed by the attorneys. Section staff are charged with the responsibility of updating the database with approximately 350 active status codes, 53 dispositions and more than 100 variables. All these combine to give more details regarding the status of a claim. These codes are used by specialists to ensure quality assistance to claimants, attorneys, employers and carriers. During this reporting period, the data entry section received 100,774 pieces of mail, 35,315 orders from the ALJs, 2,023 awards and opinions as well as 2,960 docket orders. Each document receives personal attention to ensure that the data coming into the office is legitimate.



The Electronic Data Interchange (EDI) system is used by carriers and self-insured employers to report data electronically. This system has been used by Kentucky since 1996. The information transferred via EDI is monitored and coded by **the EDI Section**. There are over 10,000 codes available for committing specific information about each injury. This information is used for tracking purposes and as system triggers for issuing statute of limitations letters based on the date of injury or last receipt of temporary total disability benefits. Section staff manually enter first report information from the application in the event a claim is filed on an injury or occupational exposure that isn't initially reported. This ensures that the agency's records are complete and there is no interruption in workflow. Information compiled by this section is utilized through the office as the claim progresses throughout the adjudication process. During this fiscal year, the EDI section received 36,557 first reports through the EDI system, manually added 1,872 injury reports and completed 894 change forms.

The Open Records Section responds to requests for claim and first report information pursuant to KRS 61.872(2). Requests are received from a variety of outside parties including attorneys, insurance carriers, employers, the Social Security Administration as well as the general public. During the 2005-2006 fiscal year, 15,371 written requests were received, 46 walk in requests and 343 requests from the Social Security Administration. In addition to producing hard copy records, oral testimony and certifications are also provided by this section upon request. Available to prospective employers through the Open Records section, is a service of pre-

employment screening. Pre-employment requests are only granted after the Office of Workers' Claims has received a written request, accompanied by a signed employee authorization form. Pre-employment inquiries totalled 20,878 coming in as the most frequently requested material. The amount of money received by the open records section this fiscal year was \$69,536.03.

Pursuant to KRS 150.170, the Open Records Section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals applying for free hunting and fishing licenses. This reporting period, there were 67 applications processed.

The Research Section of the Records Branch conducts intricately specialized injury and industry research by collecting, reviewing and comparing data that is relevant to workers' compensation issues and the Kentucky Office of Workers' Claims. Complex SQL queries are written to extract the data from the agency's SSIMBA (Server Based System for Information Management and Business Applications) system. Section staff are familiar with the 89 tables that are housed in the SSIMBA database as well as the codes, current as well as historical, that are used by the Data Entry and EDI Sections to identify each specific document type and maintenance type transaction code. Reports are formatted to answer in depth open records requests and to monitor agency, carrier and employer performance. This data is highly beneficial when it comes to exploring areas of legislative interest.

Statistical reports and analysis by the research staff are gathered/processed from accessing the first reports of injury, the subsequent reports of Injury and various other OWC databases. A few examples of

research, analysis and compilation of duties of the section staff include the OWC's Annual Report, the Quarterly Activity Reports and the Workers' Compensation Guidebook. Research and data extraction is often requested by the public as well as governmental entities, health care representatives, attorneys, the media and legislators. The results attained by the research staff are used in a variety of ways: to assist in claim filing, to prepare for safety training programs and to update state and national data banks. Additionally, information sharing agreements are held with a variety of other state agencies: Medicaid, Revenue, Retirement and the Office of Insurance.

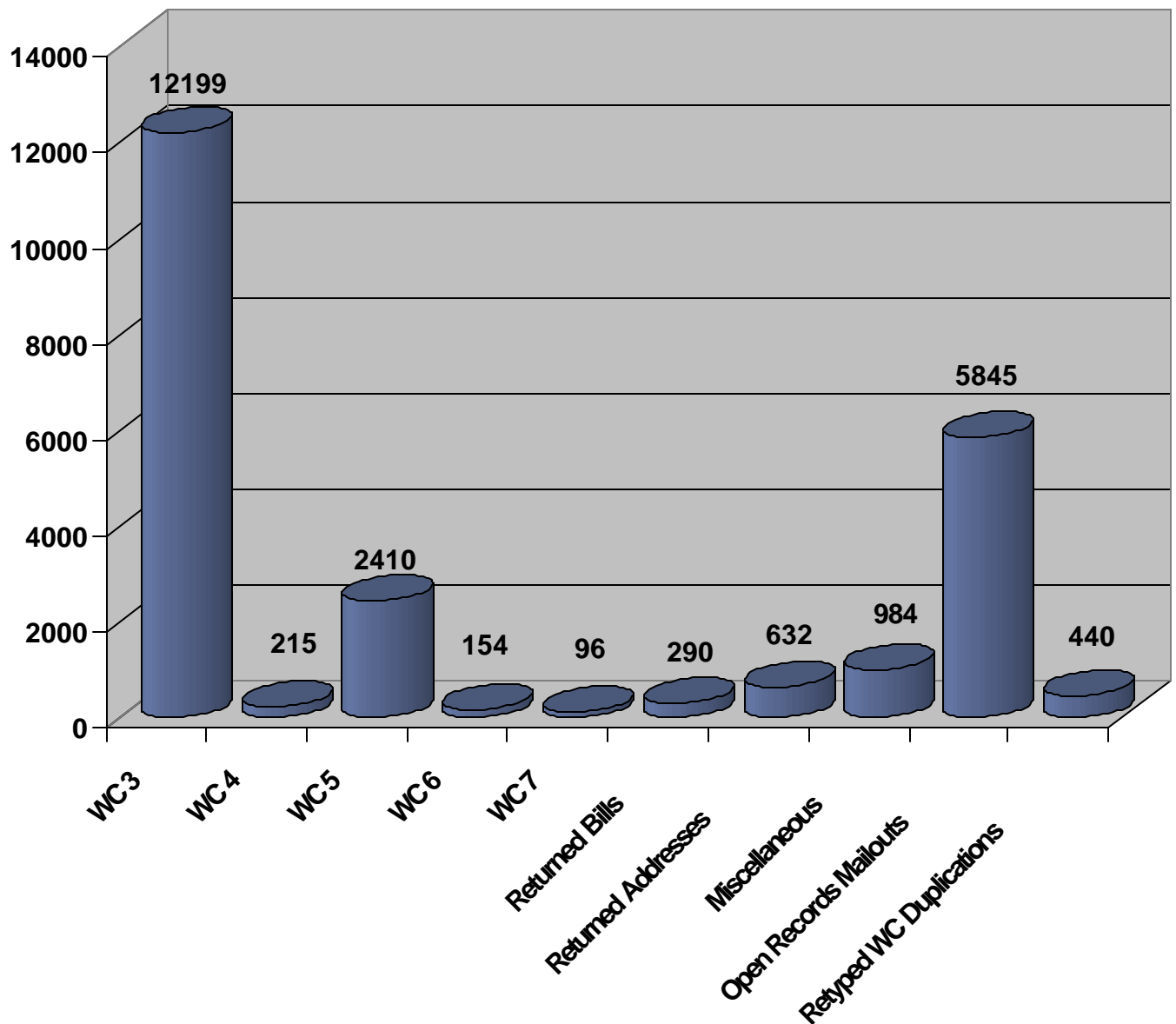
The Research Section compiles, designs and edits a variety of office publications, in addition to monitoring the agency's statistical progression. The Quarterly and Annual Reports to the Governor, Workers' Compensation Guidebook, Legislative Change Brochures, and Retraining Incentive Benefits Posters are essential in aiding constituents and the public to understand the complex system of workers' compensation. These publications are produced for print as well as web publishing.

In addition, staff maintains, manages and enhances the Office of Workers' Claims Web site as well as the Southern Association of Workers' Compensation Administrator's (SAWCA) Web site. This fiscal year brought about a change with the OWC Web site. It was converted from a Hypertext Markup Language (HTML) based site to a Content Management Server (CMS) site. This transition took several months of working behind the scenes before going live. Section staff attended monthly meetings, web lead training and put in many hours converting the HTML site to the CMS site. The new Web site is much more user friendly for the OWC constituents.

The Research Section also aids Administrative Services' Design and Development Section, as well as Data Entry and the EDI Section in maintaining data integrity. Section staff often identify inconsistencies within the data that are not apparent to average users. This results in the development of stronger edits, data clean-up queries being generated and disseminated to resolve such situations.

During this fiscal year, a few new items were added to the section's normal routine. The research staff had the opportunity to design and develop the Kentucky Horse Racing Authority's Biennial Report. Section staff also began working on WC letters as well as assisting the Open Records Section with mailouts. WC letters are sent out for a variety of reasons: benefits terminated, untimely filing, denials, fatality letters, etc. The mail totals for this fiscal year are outlined in the following chart.

Distribution of Mail Processed by the Research Section



The Imaging Branch

The Imaging Branch is responsible for scanning and verifying all hard-copy documents and indexing them into the agency's imaging system. This fiscal year, imaging scanned 201,500 documents equaling 1,470,806 pages. In addition, section staff processed all in house microfilm requests and updated the microfilm database with regard to consolidations and reopenings. The number of microfilm file requests totalled 1,005 which equates to 126,271 pages. Other responsibilities of this branch include document retention and destruction. All documents are maintained in accordance with the Department for Library and Archives retention schedule.

In 1995 when the Office of Workers' Claims implemented its optical image system, it was decided that initially only new claims would be scanned. However, over time as the benefits of the system were realized, the agency expanded the criteria for imaging documents. Now, ten years later the Office of Workers' Claims in cooperation with the Department of Labor is considering a joint microfilm/microfiche conversion project that if funded would allow for all records stored on microfilm/microfiche to be digitized. The benefits of having all records within the agency stored on optical platters are far reaching. Having one storage and retrieval system provides agency staff the ability to view any record maintained by the office directly from their desktop. Costly maintenance agreements and equipment costs associated with microfilm

readers/printers can be eliminated and information sharing agreements can be automated thus reducing copying costs and postage charges. Due to a 75-year retention requirement, the OWC's Imaging Branch has approximately 16,000 rolls of microfilm which contain injury and occupational disease claims back to 1930. As a

service to our stakeholders, a cost benefit analysis will be pursued in the next fiscal year to determine the feasibility of digitizing those cases which are currently retained on microfilm and microfiche.



Security & Compliance

A person wearing a white lab coat and a hairnet is focused on working with a complex piece of industrial machinery. The scene is set in a laboratory or industrial environment, with various pipes, wires, and mechanical components visible. The overall image has a blue tint.

The focus of this division is to ensure that non-exempt employers maintain workers' compensation coverage for their employees. This division is comprised of three branches. The Self-Insurance Branch audits the individual self-insured employers' claim files, monitors their financial strength and determines the surety requirements necessary to secure benefits for the self-insured employers' workforce. The Coverage Branch maintains records to document proof of coverage for each insured Kentucky employer. The Enforcement Branch investigates the status of Kentucky employers' insurance coverage through on-site visits to encourage compliance with the workers' compensation act, ensuring that workers within the Commonwealth are protected in the event of a workplace accident.

Self-Insurance Branch

Individual Self-Insurers –At the end of the 05-06 fiscal year, there were 165 individual self-insured companies, two of which were on the self-insurance watch list. It is anticipated that two additional companies will be added to the watch list in the near future.

Two self-insured companies declared bankruptcy during this time period. One was a former self-insured and one is a currently self-insured company. Both companies continue to pay their workers' compensation liabilities; therefore, surety has not been notified and the companies have not been reported to the Kentucky Individual Self Insurers Guaranty Fund.

It was determined that the actuarial model previously utilized to establish surety requirements needed to be updated. The OWC hired an actuary with extensive Kentucky workers' compensation experience. The actuary has completed the finished product and it is being used to establish surety requirements for new applicants as well as current and former self-insured companies.

The OWC continues to review the reserving practices of the self-insured companies to assure adequate reserves are being reported. As of today, 155 such reviews have been conducted with 120 of those accomplished in the last fiscal year. The reviews have been utilized to assist in determining when a surety reduction requested by a former self-insured is or is not warranted.

Coverage Branch

The Coverage Branch receives information through the Electronic Data Interchange (EDI) system documenting proof of workers' compensation coverage from each carrier and self-insured group fund, for employees covered by the workers' compensation act. An estimated 229 insurance companies, including the competitive state fund Kentucky Employers Mutual Insurance Company (KEMI), insured the Commonwealth's employers during this fiscal year. Carriers and insurers submit required Proof of Coverage information through one of the state approved data collection agents. There are three (3) data reporters approved to submit proof of coverage: WorkComp Link, Claimport (ISO) and National Council on Compensation Insurance (NCCI), added on January 1, 2006. KEMI and Kentucky Employers Safety Association () are approved to submit proof of coverage directly to the office. Data is received by a master database maintained by the Coverage Branch. Section staff processed 196,831 transactions that were received from the carriers. Certifications of coverage, monitoring of "wrap-up" construction projects, registration of employee leasing organizations and other special projects complete the responsibilities that are part of normal day-to-day operations.

Enforcement Branch

The function of the Enforcement Branch is to ensure that employers subject to the workers' compensation act comply with statutory requirements. Enforcement officers conducting random on-site visits to employers facilitate timely compliance with the act. The branch also investigates leads generated by in-house personnel, complaints and injury claims (Uninsured Employer Fund) reported through various sources. In addition, the branch encourages timely compliance through educational initiatives.

The branch has a staff of enforcement officers located in various field offices across the state. Officers use mobile computers to record information at the point of investigation. Completed investigations are electronically transmitted to the Frankfort office where they are received into a database.

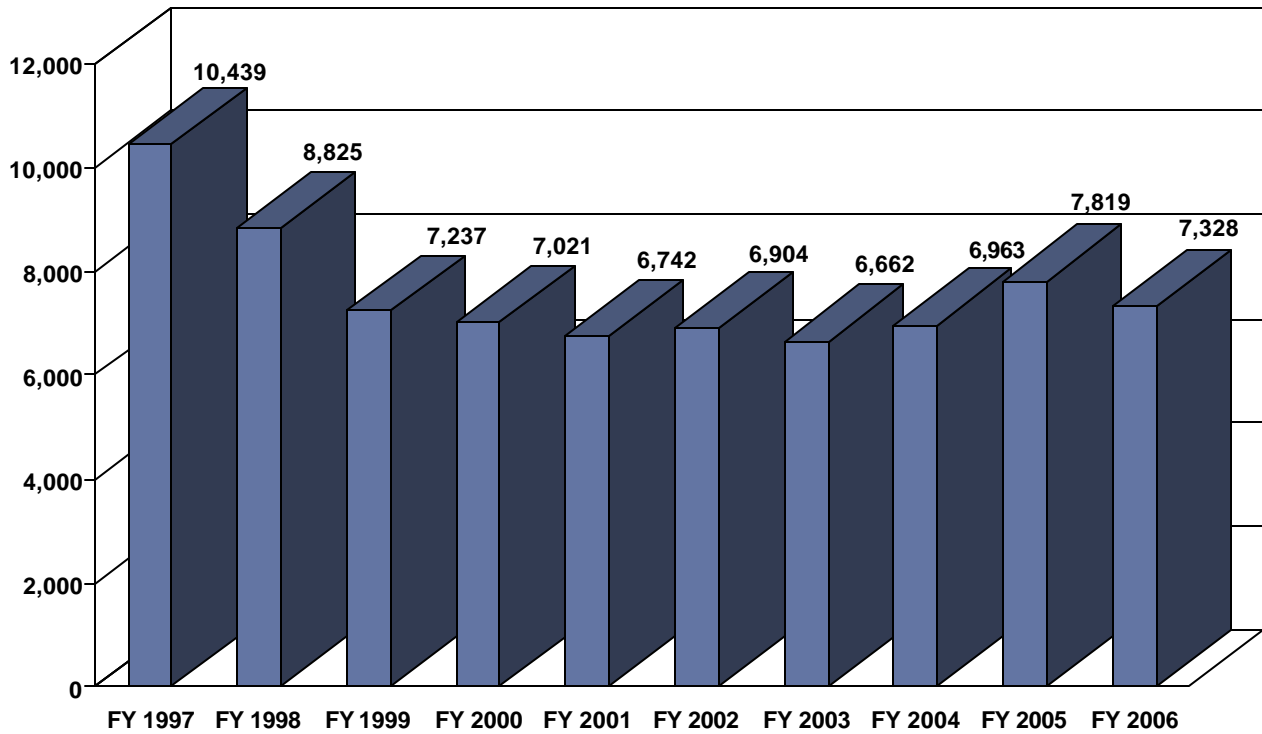
Citations to non-compliant employers are prepared for the executive director's approval and delivered to the employer. The enforcement branch logs and processes citations through the legal tracking system. Penalties are collected, logged and entered into the system by the Enforcement Branch. When necessary, officers testify and present evidence in official proceedings.

Through three retirements and one transfer, the branch encountered a 40 percent reduction in enforcement officers during this time period. It is anticipated vacancies will be filled early in the new fiscal year. Subsequently, the number of investigations conducted and ultimately the number of citations issued was affected this year. This fiscal year the branch's enforcement officers conducted 7,797 investigations. This resulted in 1,052 citations for civil penalties being issued by the executive director to non-complying employers. The branch collected \$1,192,471.89 from assessed penalties to be used pursuant to Senate Bill 191(2006). This is a record for fiscal year penalty collections. For comparative purposes, the following chart breaks down investigations and citations issued to non-complying employers during the previous five years.

Investigation Analysis Fiscal Year 2001-2006						
	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06
Number of Investigations	10,248	11,173	10,095	8,993	10,474	7,797
Number of Citations	768	461	447	709	1,142	1,052
Penalties Collected	\$249,297	\$252,564	\$296,609	\$388,826	\$737,755	\$1,192,471

Additionally, the Enforcement Branch also has the responsibility to maintain the filing of Employee's Written Notice of Rejection of the Workers' Compensation Act (Form 4). An employee may waive the right to protection under the Act by filing this notarized form with the Office of Workers' Claims. In fiscal year 2006, the branch received and logged 7,328 Form 4s. The attached chart shows the number of employees rejecting coverage declined significantly from fiscal year 1997 and has remained constant.

**Employee's Written Notice of Rejection
filed with the Office of Workers' Claims**



A blue-tinted photograph of a utility worker in a bucket working on power lines. The worker is wearing a hard hat and safety gear, and is positioned on a bucket that is part of a larger piece of equipment. The background shows a wooden utility pole and several power lines. The overall image has a monochromatic blue color scheme.

Constituent Services

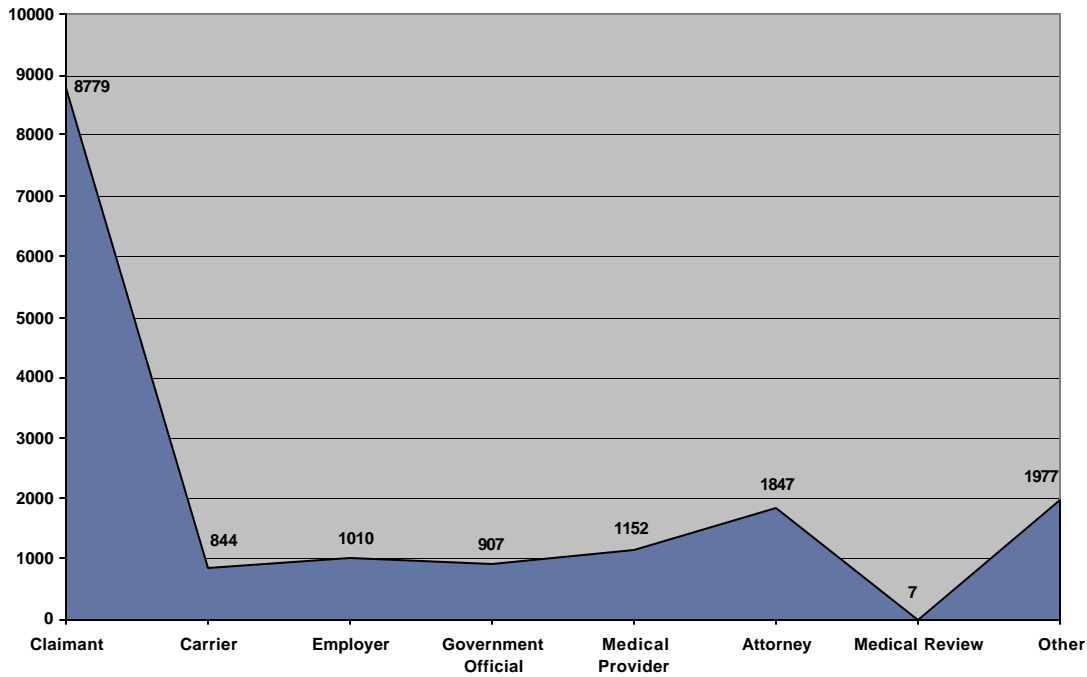
The Division of Ombudsmen and Workers' Compensation Specialists provides a centralized source of information and assistance. This division directly services the needs of workers, employers and members of the insurance and medical professions.

Toll-free assistance is available on topics such as how to file a claim, dispute resolution, various rights and procedures, as well as a wide range of medically related issues. The division also receives and answers or directs inquiries through the agency's Web site.

In addition to the Ombudsmen and the Workers' Compensation Specialists Services sections, the Medical Services Branch and the Rehabilitation Section are included in this division. Primary focus for these areas is on medical cost containment, studying workers' compensation medical and return to work issues including other states' procedures, vocational rehabilitation and independent medical evaluation services.

During the 2005-2006 fiscal year, the Division of Ombudsmen and Workers' Compensation Specialist Services continued to be proactive in providing assistance and information. They responded to 16,523 requests. Most requests for assistance were completed within a week of initial contact. The chart below reflects a breakdown on the sources of those requests.

Breakdown of Assistance



The table below outlines the subject matter of these requests. The category represented by 'Other' includes such things as the attorney of record, the current mileage rate, the carrier/ insurance agent and questions of a general nature.

Topic	Number of Calls
Medical Fee Schedule	74
Rights and Procedures	10,091
Rehabilitation	14
Medical Fee Dispute	637
Form Request	1,208
Claims Status Request	2,587
Fraud	66
First Report of Injury	658
Claim Filing Assistance	207
Coverage	1,858
Managed Care	14
Referrals to Outside Agencies	629
Utilitization Review	73
Unfair Claims Settlement Practice Investigation	167
Other	1,151

Ombudsmen and Workers' Compensation Specialists Branch

Established in 1994, the Ombudsmen and Workers' Compensation Specialist Branch is now in its' twelfth year of operation. The branch currently employs eleven workers' compensation specialists throughout the state – six in Frankfort and the remaining five in branch offices of Louisville, Pikeville and Paducah.

Toll-free telephone assistance is available to callers on all workers' compensation topics of interest to the public including how to report or file a claim, dispute resolution, benefit information, rights and procedures and many related issues. This branch also responds to constituent services requests from lawmakers and attorneys.

The primary daily activity of the workers' compensation specialists is to assist in the prompt delivery of benefits. This is done by facilitating communication and exchange of information between the injured worker and the claims adjuster, employer and medical providers. Care is taken to remain impartial in dealings with all parties.

On occasions where a complaint is received that benefits are unreasonably denied or delayed, the branch's legal staff will initiate an inquiry as to whether an unfair claims settlement practices violation has occurred. The executive director is authorized to fine an insurance carrier for such violations in the delivery of benefits. A total of 104 unfair claims settlement practices investigation were opened by staff for the past fiscal year.



2006 Medical Issues Study

In anticipation of next year's utilization review study, the Medical Services Branch has been working to identify potential issues and relevant topics to include in the study. It is the goal of the OWC to form committees comprised of physicians, insurers and business representatives to study specific workers' compensation problems and propose solutions to the problems. Volunteers will be organized into seven sub-committees whose topics will include: chiropractic issues; managed care; medical fee disputes; pain management; prescription drug abuse; treatment guidelines; and utilization review administration process. Committee members will meet regularly during the study, as small groups and when the chairs of each committee deliver their committee's research paper to the executive director. After all committees have completed their presentations and research papers, the executive director will then study the submitted issues and decide how to proceed.

Medical Services Branch

Cost containment and the administration of medically related services are the primary activities of this section of the Office of Workers' Claims. Major programs and projects in this division this year included Managed Care Plans; Utilization Review Plans; University Evaluations; "B" Reader Consensus Panel; Medical Fee Schedules; and Cost Containment and Vocational Rehabilitation.

Managed Care

The Managed Care Unit is charged with the responsibility of approving and overseeing the operations of Managed Care Programs (MCPs) in Kentucky.

During fiscal year 2005-2006 there were 35 approved managed care programs in operation. MCPs emphasize controlling utilization of medical services through the use of provider networks, gatekeeper physicians, aggressive case management and coordination of medical treatment and return to work.

Approximately 42 percent of Kentucky's workforce (excluding agriculture) participated in workers' compensation MCPs this year. The 35 MCPs that were operational covered approximately 10,345 employers and 783,077 employees.

Today, 11 years after managed care was first enacted, it still remains one of the most historically significant cost containment measures in Kentucky's Workers' Compensation system. In 2005-2006 a study of managed care is in progress to see what works and what needs improvement and to enlist the ideas and suggestions of plan administrators and insurance companies.

Utilization Review

Since 1995 insurance carriers, self-insured employers and group self-insured funds have been required to implement a Utilization Review Program (UR) and submit the written plan to the executive director for approval. The regulations were adopted to meet the objectives of improving medical treatment, reducing over- utilization of services, reducing litigation over medical matter and facilitating the exchange of information between physicians and payors. During this time period, 72 UR programs were in operation.

2005 Physicians Fee Schedule

On February 15, 2006 the 2005 edition of the Kentucky Workers' Compensation Medical Fee Schedule for Physicians went into effect. It governs physicians' charges in Kentucky

workers' compensation cases. Utilizing updated coding (2004 CPT codes), ground rules and procedure description updates and revised reimbursement values, it completely replaces the prior October 15, 2001 edition. The fee schedule committee has already started working on the next Physicians' Fee Schedule. The process takes about eighteen months to two years to complete. It includes writing bid specifications; a public bid process and selection of an actuarial vendor; working with the vendor to decide what new CPT codes to include; stakeholders meetings; final proofs; getting approval from the legislature; publishing and distributing the fee schedule.

Hospital Fee Schedule

Per 803 KAR 25:091, the Kentucky Office of Workers' Claims is required to calculate adjusted "cost-to-charge" ratios for hospitals for each calendar year. The hospital fee schedule (cost-to-charge ratio) governs the reimbursement for hospital charges in workers' compensation claims and becomes effective by April 1st of each year. Calculations are determined by using applicable figures taken from each facility's cost reports (HCFA-2552) on file with the Cabinet for Health and Family Services. The Office of Workers' Claims promulgated the cost to charge ratio for 112 hospitals in FY 05-06. Out of state facilities, by regulation, are reimbursed in the same manner as Kentucky hospitals.

University Evaluations

Medical Schedulers are responsible for the coordination of scheduling university evaluations at the University of Kentucky and University of Louisville (pursuant to KRS 342.315). Examinations are conducted in all hearing loss and occupational disease claims, and in claims by order of an Administrative Law Judge.

This fiscal year, there were a total of 263 claims that required university evaluations. 161 were scheduled at the University of Kentucky and 102 were scheduled at the University of Louisville. Timely scheduling of university evaluations by the universities and preparing and sending reports are elements that are critical to the success of this program.



B-Reader Consensus Panel and Black Lung

Black Lung claims (coal-related occupational pneumoconiosis) require a chest x-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified “B” reader. If the interpretations filed by each party are not in consensus, the claim is forwarded for panel processing. In 2005-2006 there were 82 black lung claims referred for the panel process. The Office of Workers’ Claims is required to maintain a list of certified “B” readers (pursuant to HB 348). Medical Schedulers are responsible for processing the random selection of “B” readers, sending x-rays to the chosen panel of three and recording and maintaining all reports.

Vocational Rehabilitation Section

In Kentucky, when an injured worker is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment.

In FY 2005-2006, the Vocational Rehabilitation Section opened 178 new cases. Of these, 112 were ordered by an Administrative Law Judge. Forty claimants requested training during this time and approximately 16 of that group returned to work.

During the previous fiscal year, the executive director asked for a comprehensive review of the workers’ compensation vocational rehabilitation program and procedures. A vocational rehabilitation focus group was formed to find ways to strengthen the system and to make it more efficient in facilitating return to work and the delivery of vocational rehabilitation services.

The focus group consisted of several attorneys, a vocational rehabilitation industry professional, an insurance carrier representative, the Workers’ Compensation Chief Administrative Law Judge, a Kentucky Office of Vocational Rehabilitation counselor and several OWC vocational rehabilitation professionals. Areas of study included: What’s working? What’s not working? How can early identification of those candidates interested in vocational rehabilitation be provided to keep the process from stalling? Are there ways to build incentives to obtaining GEDs?

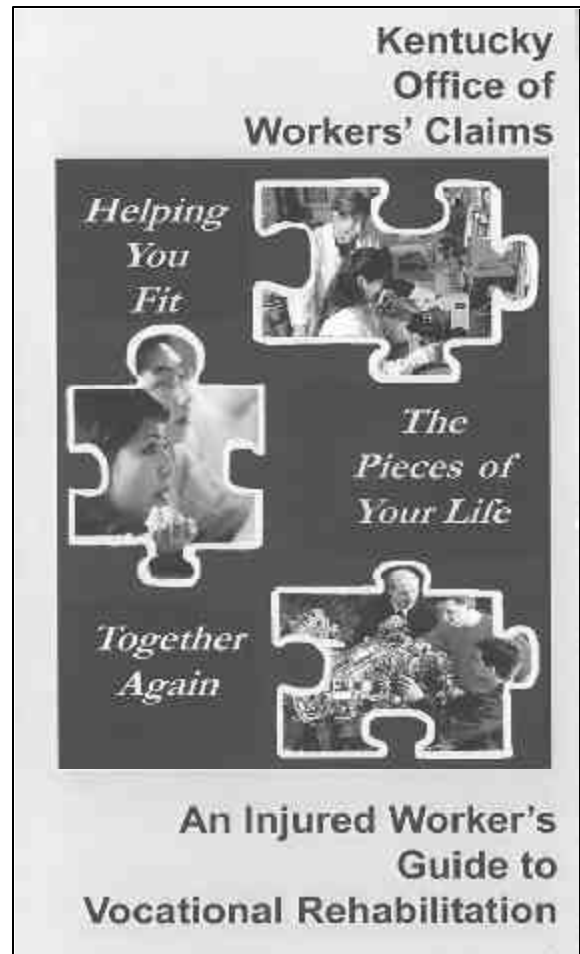
As a result of the study, a number of changes were made in the vocational rehabilitation section. First, the focus is on earlier identification of and intervention with injured workers who may be vocational rehabilitation candidates. To do so, OWC created and sent a vocational rehabilitation brochure and WC Guidebook to all interested individuals. Agency staff also provided frequent reminders to insurance carriers and self insured entities of these benefits and the assistance offered through the OWC.

In addition, staff successfully spent many months inputting file information into the agency’s computer system in an effort to go paperless. By going ‘paperless’, it has eliminated problems with missing files, redundancy and multiple user access. Vocational Rehabilitation computer entries, file organization, letters and case closures have also been updated. Putting these management strategies in place has allowed the vocational rehabilitation staff to spend more time counseling those candidates who are serious about retraining. Staff has also been working closely with the Kentucky Office of Vocational Rehabilitation to improve communication between these agencies and to identify how they can work together for the benefit of individuals in need of vocational rehabilitation.

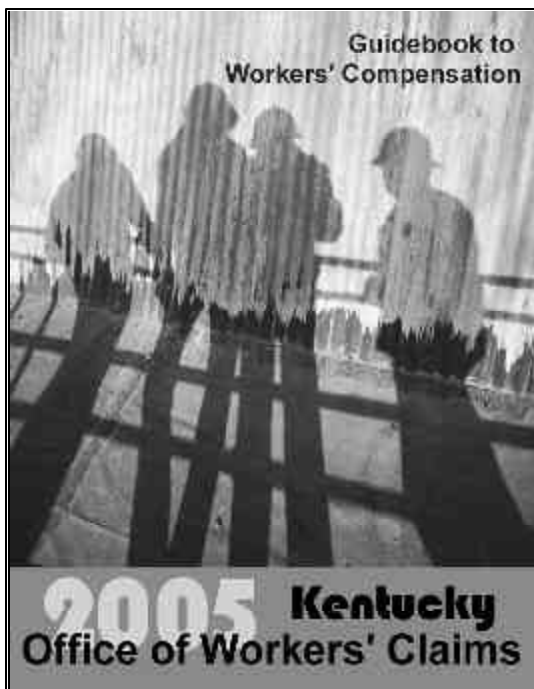
Publications



Coal Workers' Pneumoconiosis Poster



Vocational Rehabilitation Brochure



Workers' Compensation Guidebook

These publications may be accessed through the agency Web site at <http://labor.ky.gov/workersclaims> or by calling the Office of Workers' Claims toll free at 800-554-8601

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Medical Schedulers	(502) 564-5741 Vocational Rehabilitation	(502) 564-9533

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Department of Labor.

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.

